

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
Plaintiff,) 13cr00220
V.) United States Courthouse
BEBARS BASLAN,) Brooklyn, New York
Defendant.) THURSDAY, JULY 17, 2014
9:30 a.m.

TRANSCRIPT OF CRIMINAL CAUSE FOR TRIAL
BEFORE THE HONORABLE RAYMOND DEARIE
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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Proceedings recorded by mechanical stenography, transcript
produced by Computer-Assisted Transcript.

1 (Outside the presence of the Jury.)

2 THE COURT: Counsel, you have something you want to
3 broach?

4 MS. DEMAS: You want the defendant here?

5 MR. SAVITT: I'll waive the defendant's presence.

6 THE COURT: Let's see what it is, and if we need to
7 repeat it, we will.

8 MS. DEMAS: Pursuant to Giglio, the United States is
9 disclosing that for victim two, the witness who goes by the
10 first name Cortney, she is unemployed; in order for her to
11 meet with the government, there were times when the government
12 had to give Cortney money for either a taxi fair, a train
13 fair, or -- on one occasion, her mother came with her and we
14 gave money for the mom's taxi fair to JFK. We expect to be
15 reimbursed for any cash that's been given to this witness, and
16 that should happen today, when the witness gets reimbursed out
17 of the funds all witnesses get reimbursed out of.

18 But in an abundance of caution, because she is not
19 reimbursed yet, I'm putting on the record, on June 26th,
20 myself and AUSA Smith gave a total of \$60 to Cortney's mother,
21 Kelly Peace. That was for taxi fair to JFK Airport. On
22 6/24/2014, Special Agent Ademchich (phonetic) gave \$50 to
23 Cortney and her mother for train fair. Yesterday I and
24 Special Agent Ademchich gave \$20 each to Cortney so she had
25 money for dinner and other incidentals. And in July, we

1 purchased a potbelly sandwich, a Red Bull soda and chips for
2 Cortney. That was \$10. And also in July, we paid \$4 for a
3 sandwich for Cortney.

4 THE COURT: Thank you very much.

5 MR. SAVITT: Thank you. I will advise my client.

6 THE COURT: Mr. Savitt, your client is now in the
7 courtroom.

8 MR. SAVITT: Thank you, your Honor.

9 (In the presence of the Jury.)

10 THE COURT: Good morning, folks. Please be seated.
11 We resume the direct testimony of Mr. Flatley.

12 Sir, you were placed under oath and you remain under
13 oath. Do you understand that?

14 THE WITNESS: Yes, sir.

15 STEPHEN FLATLY,
16 having been previously duly sworn, was examined, and testified
17 further as follows:

18 THE COURT: Ms. Demas.

19 MS. DEMAS: May I have the document camera up for
20 the jury, please?

21 THE CLERK: Certainly.

22 DIRECT EXAMINATION (CONTINUED)

23 By MS. DEMAS:

24 Q Mr. Flatley -- and I apologize if I called you agent
25 yesterday. You are not an agent, are you?

Flatly - Direct - Demas

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1 A Correct.

2 Q When we left off yesterday, we were looking at Government
3 Exhibit 43K, which was on the screen, and I was can asking you
4 questions about the timestamps. Now, is it correct that the
5 message with the photograph of the Benadryl and NyQuil --
6 excuse me -- NyQuil was sent at 5:42 p.m., once one does the
7 conversion from universal time to Eastern Time?

8 A Yes, that is correct.

9 Q And the next message that reads, "Sorry. Meant to send
10 that pic to my sister," is the timestamp on that 5:49 p.m.
11 Eastern Time?

12 A Yes, ma'am, it is.

13 Q And, then, the final text that says, "Okay," from the
14 defendant to Kristen Henry, am I correct that the time for
15 that is 5:50 p.m. Eastern Time?

16 A Yes, ma'am.

17 Q Okay. So I'd like to switch to the lantern report for
18 the Baslan phone. And if you don't mind just reminding the
19 jury of the difference between the Lantern Report and the
20 Blacklight Report that we were just looking at. Can you just
21 explain to the jury the difference between these two?

22 A Yes. They're just run by two different tools, so they
23 appear a little different; they might pull some different
24 things, some additional things, but it's the same phone that
25 they're looking at.

Flatly - Direct - Demas

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1 Q Okay. And so now looking at this first page of the
2 Lantern Report, which has been marked Government Exhibit 42A,
3 can you explain to the jury what this captures?

4 A This is just the front page of the report when you open
5 it.

6 Q And we're going to the second page, which has been marked
7 as 42B. Can you explain what this shows?

8 A This is specific information about the device, so it
9 has -- it was an Apple 5, the model number, serial number,
10 things of that nature.

11 Q And does the phone number for this phone appear in the
12 Lantern Report as well?

13 A Yes, it does.

14 Q Based on that phone number, is it the same phone seized
15 from Mr. Baslan?

16 A Yes, it is.

17 Q Now, the Lantern Report, when it pulls times, is it in
18 universal time or Eastern Time?

19 A You'd have to put the report up again for me to be a
20 hundred percent correct.

21 Q Sure.

22 A Lantern makes the correction and turns it into Eastern
23 Time.

24 Q I'm putting up on the screen what's been marked as
25 Government Exhibit 42D. Call history. Can you explain to the

Flatly - Direct - Demas

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1 jury what we're looking at here? And I'm going to zoom out a
2 little bit so you can see the whole thing.

3 A This is a history of the calls -- the last calls that the
4 phone made. Generally the iPhone will save the last 100 calls
5 that it made, and it depicts them with an icon, along the side
6 as to if it was a missed call, an incoming call or an outgoing
7 call.

8 Q I'm pointing with my pen to a little signal that looks
9 like a green phone with an arrow. Can you explain to the jury
10 what that is?

11 A That is that green phone with the arrow, is a signal for
12 the icon, for an incoming call.

13 Q What about the red phone with the arrow?

14 A The red phone with the arrow indicates an outgoing call.

15 Q And what does an exclamation point mean?

16 A That is a missed call.

17 Q Focussing your attention on the entries towards the
18 bottom, can you explain to the jury what the entry that I'm
19 pointing to at 3:19:17:32 Eastern Daylight Time means, in
20 terms of who made the call, who received it and what time?

21 A It is an outgoing -- I'm sorry. Can you make it a little
22 bit bigger?

23 Q Sure.

24 A That is an outgoing call to Kristen Henry on March 19th
25 at 5:32 p.m. Eastern Time.

Flately - Direct - Demas

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1 Q And I'm going to point to one more with my pen. Could
2 you tell the jury what that one is?

3 A That is an incoming call from Kristen Henry at 5:48
4 Eastern Time, p.m.

5 Q Now, following along -- zoom out for a second. If you're
6 to follow along that last call at 5:48 p.m., does it indicate
7 whether the call was actually picked up?

8 A Yes, says the call duration, I believe, 29 seconds.

9 Q And what about that earlier call at 5:32 p.m., was that
10 call actually picked up as well?

11 A Yes, it was. The duration looks like 38 seconds.

12 Q Now, going back to -- I'm sorry. I want you to remember
13 the timestamp on this last call 17:48:47. Do you see that?

14 A Yes, ma'am.

15 Q That's 5:48:47 Eastern Daylight time?

16 A Correct.

17 Q Going back to Exhibit 43K. When did this call take place
18 in relation to the text messages?

19 A I'm sorry. Said it was 5:45.

20 Q 5:48 and 7 seconds.

21 A So it takes place between the picture being sent and the
22 other picture -- the other text. It says, "Sorry. I meant to
23 send that pic to my sister."

24 Q Now, were you able to pull off of the Lantern an enlarged
25 version of that photograph that was actually sent between

Flately - Direct - Demas

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1 Kristen Henry and the defendant?

2 A Yes, I was.

3 MS. DEMAS: Putting on the screen Government
4 Exhibit 42C.

5 Q Can you tell the jury what this is?

6 A That's a picture that I got off of Kristen Henry's phone.

7 Q Were you able to get an enlarged version of the
8 photograph off the defendant's phone as well?

9 A I don't recall. I would have to see my report to be a
10 hundred percent sure.

11 Q Now, I'm going to put up on the screen what's been marked
12 as Government Exhibit 22F from the Lantern Report of the
13 defendant's phone. Do you see this?

14 A Yes, I do.

15 Q Can you explain for the jury what we're looking at here?

16 A We are looking at a -- it's difficult to tell with it
17 being so chopped down, but it's a picture that was received.

18 Q Picture that was sent or received. Do you see the green
19 arrow?

20 A Can you make it a little bit bigger? It was sent. I'm
21 sorry.

22 Q When was this picture sent?

23 A It was sent on March 13th, 2013, at 12:52 p.m. Eastern
24 Time.

25 Q Zoom in a little more. Can you see what this picture is

Flatly - Direct - Demas

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1 of?

2 A It is of an Apricorn external hard drive.

3 Q I'm putting on the document camera what's in evidence as
4 Government Exhibit 42G. Is this an enlarged photograph of
5 that same one we were just looking at?

6 A Yes, it is.

7 Q And what does it show?

8 A It shows -- actually, what this is, is a screen shot of
9 this from a web page that was browsed on the phone.

10 Q Does it show the Apricorn hard drive?

11 A Yes, ma'am.

12 Q I'm now putting on the screen what's been marked as
13 Government Exhibit 42H and is in evidence. Can you tell the
14 jury what we're looking at here?

15 A This is that file that's saved on the phone.

16 Q The same file of the Apricorn?

17 A Yes, ma'am.

18 Q And 42L, what is this?

19 A It's another picture of an Apricorn drive.

20 Q Were there multiple pictures of Apricorn drives on the
21 defendant's phone?

22 A Yes. Yes, there was.

23 Q Putting on the document camera, Government Exhibit 42J in
24 evidence. I'm just going to zoom in a little bit. Can you
25 tell the jury what we're looking at here?

Flatley - Direct - Demas

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1 A It was a Google search for Apricorn encrypted hard drive.

2 Q What's the date of that search, those searches?

3 A March 13th, 2013, at 12:53 p.m. Eastern Time.

4 Q Were there two searches?

5 A Generally, when they're that close, you ran one search
6 and then clicked on one of the returns. So it could have been
7 one search, but then subsequent going through that, there
8 were --

9 Q Do you see a difference in the spelling of Apricorn
10 between the bottom one and the top one?

11 A Yes. Yes, there is.

12 Q What's the difference?

13 A The bottom one has no "N" on it. It's -- c-o-r. There's
14 no "N". And the top one has the "N" on it.

15 Q I'm showing you Government Exhibit 42K from the iPhone.
16 Can you tell the jury where this photograph came from?

17 A That was from the contacts. You have a -- you can use a
18 picture of a person in a particular contact to remind you who
19 it is, and this is out of that.

20 Q Thank you. And just so the record is clear, the last
21 name of this person is redacted out on 42K?

22 A Yes, it is.

23 Q Now, did you also go through the cellular phone that had
24 been seized from Kristen Henry? Did you do a report on that?

25 A Yes, I did.

Flatley - Direct - Demas

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1 Q Did you do both a Lantern and a Blacklight Report?

2 A Yes, I did.

3 Q I'm showing you what's in evidence as Government
4 Exhibit 44A. It's the screen shot from the Lantern Report.
5 Can you explain to the jury what this is?

6 A This is the page which depicts the device information.
7 It has --

8 Q Does that page include the number for the telephone?

9 A Yes, it includes the model of being an iPhone 4-S. It
10 includes the phone number. It says "anonymous."

11 Q Is it possible to set the phone so the phone number is
12 anonymous?

13 A Yes, with cell phones in general, the number on the phone
14 doesn't necessarily identify the phone to the network.
15 There's a different number down, if you scroll down a little
16 bit, that says IMSI. That is what the cellular network refers
17 to it as, so that is the true, in the system's term, phone
18 number. But the phone number that we use -- since you can
19 change phone numbers on cell phones, the phone number that --
20 it's called the MZ. The MZ is what the system refers to it
21 as.

22 Q Directing your attention to what's been marked as
23 Government Exhibit 44C. Do you see that on the screen?

24 A Yes, ma'am.

25 Q Can you tell the jury what we're looking at here?

Flatly - Direct - Demas

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1 A This is a Lantern Report of the text message conversation
2 back and forth that was viewed on the other phone as a
3 Blacklight Report.

4 Q Okay. And so this is -- what we're looking at now comes
5 from Kristen Henry's phone; is that right?

6 A Correct.

7 Q And is the timestamp on that bottom photograph with the
8 Benadryl consistent with the timestamp that was on the report
9 for Mr. Baslan's phone, apart from the time code difference?

10 A Yes, it is.

11 Q And is there anything to indicate that this photograph
12 was sent to anybody else on March 19th, 2013?

13 A No, there is not.

14 Q If it had been sent to someone else, would you expect to
15 see that picture in the text portion elsewhere in this report?

16 A Yes, ma'am.

17 Q Now, did you make an effort to see if you could find GPS
18 information from this photograph that was on Kristen Henry's
19 phone?

20 A Yes, I did.

21 Q And were you able to find such information from this
22 photograph?

23 A Yes, I was.

24 Q And can you explain for the jury just what that means,
25 GPS information from a photograph?

Flatley - Direct - Demas

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1 A Sure. When you take a picture with an iPhone and a lot
2 of different smart phones, they have a GPS built into them,
3 and they will tag that picture with that GPS information. So
4 the GPS information you'll find is where that person or where
5 the phone was when the picture was taken. It does that as
6 part of the functionality of a program that Apple has called
7 iPhoto, where it likes to remind you where you were when you
8 took a particular picture. You can turn that functionality
9 off, but it's on by default when they give you the phone.

10 Q Now, Mr. Flatley, I've put on the screen what's in
11 evidence as Government Exhibit 44E. Can you explain for the
12 jury where the GPS information appears on this section of the
13 Lantern Report?

14 A If you can make it a tiny bit bigger.

15 Q Sure. Is that big enough?

16 A Yes, that's fine. So going down from the top, it has the
17 file name, and that's the name of the file as the phone named
18 it, then the time it was taken; the camera that took it, which
19 is an apple iPhone 4-S. Underneath it says "where," so it
20 tries to tell you what town it was. It says Gravesend, New
21 York. I can't really -- it's a little sketchy. But then
22 underneath that is -- Gravesend, New York. Then underneath
23 that, it has the actual longitude and latitude coordinates,
24 and it gives you the source of the actual file.

25 Q And what were those latitude and longitude coordinates?

Flatley - Direct - Demas

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1 A 40.6070 north by negative 73.9623 west.

2 Q Now, Agent -- excuse me. Mr. Flatley, did you then enter
3 these geographical coordinates into a computer to see what
4 came up?

5 A Yes, we entered it into Google Maps.

6 Q Putting -- excuse me. Sorry. And when you put it into
7 Google Maps, did Google Maps generate a street map?

8 A Yes, it did.

9 MS. DEMAS: I'm showing the witness what's been
10 marked as Government Exhibit 36A for identification.

11 Q Mr. Flatley, do you recognize this document?

12 A Yes, I do.

13 Q What is it?

14 A This is the Google Maps rendering with the coordinates
15 from the picture in it.

16 Q And did you participate in doing this search?

17 A Yes, I did.

18 MS. DEMAS: The government moves Exhibit 36A into
19 evidence.

20 MR. SAVITT: No objection.

21 THE COURT: Proceed. 36A in evidence.

22 (Government's Exhibit 36A was received in
23 evidence.)

24 Q Now, Mr. Flatley, on Google Maps, can you -- can you tell
25 the jury what we're looking at in 36A?

Flatly - Direct - Demas

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1 A Sure. This is the rendering of the map that Google Maps
2 made when we put the coordinates in at the top.

3 Q And is this a street view or a map view?

4 A This is the map view.

5 Q Is it possible in Google to then switch to a street view?

6 A Yes, you just -- there's a little place you -- I don't
7 see it to this screen, but there's a link that you hit, and it
8 will turn it to the street view and will put you basically
9 exactly on that point on the street.

10 Q Did you do that? Did you switch to the street view?

11 A Yes.

12 Q Putting what's in evidence as -- excuse me. 36B, do you
13 see what we're looking at?

14 A Yes. It's a Walgreens drugstore.

15 Q Is that what came up when you put in those geographical
16 coordinates from the photograph?

17 A Yes, ma'am.

18 Q Thank you. Now, does the Lantern Report pull up Internet
19 history that a user of an iPhone has performed?

20 A Yes, it does.

21 Q And I'm going to put on the screen what's in evidence as
22 Government Exhibit 44F, which is a section of the Lantern
23 Report from Kristen Henry's iPhone. I'm going to zoom out for
24 a second. Did it show that any Internet searches had been
25 done by Ms. Henry?

Flately - Direct - Demas

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1 A Yes, it does.

2 Q Okay. And I'm going to zoom in a little so you can see.
3 Can you read for the jury what was searched and at what time?

4 A Sure. There were three searches, one for the Hyatt
5 Hotel, Jersey City; another was a maps search for the same
6 hotel, and the third is for the Hyatt Hotel in Jersey City.

7 Q And what was the date and time -- what were the dates and
8 times of those searches?

9 A Make it a tiny bit bigger.

10 Q Sure.

11 A Thank you. March 19th, 2013, at 8:34 p.m. Eastern Time.

12 Q So were there three separate searches by the second sign
13 different on the searches?

14 A They were three different searches.

15 Q Approximately ten seconds apart?

16 A Correct.

17 Q And did you click on any of the links for these searches
18 to see what came up?

19 A Yes, I did.

20 Q I'm putting Government Exhibit 44G in evidence. Or,
21 excuse me, it's in evidence. I'm putting it on the screen.

22 Could you tell the jury what we're looking at now?

23 A This is a Google Maps rendering of the location of the
24 Hyatt Regency, Jersey City.

25 Q And Exhibit 44H. What is this?

Flatly - Direct - Demas

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1 A That is the screen -- that is the screen rendering of the
2 return from Google.

3 Q And does that show what actually came up on Ms. Henry's
4 phone when she did that search?

5 A Yes.

6 Q That was the search that was at 8:34 p.m., on
7 March 19th, 2013; is that right?

8 A Yes, ma'am.

9 Q Now, switching back to the Blacklight Report, for a
10 second, from the defendant's phone, putting on the screen
11 what's been marked as Government Exhibit 43L, could you tell
12 the jury what we're looking at here?

13 A It is the contact information for the defendant.

14 Q And 43M. Could you tell the jury what we're looking at
15 here?

16 A It is a rendering of an iMessage chat.

17 Q Does it show who sent the two messages and who received
18 them?

19 A Yes, it says the sender was self, and the participants
20 were Jack, Ms. Henry and self.

21 Q And in these texts, who was the -- what time did these
22 texts occur?

23 A These texts were sent at 2853 UTC, which would be 16:53,
24 which is 4:00 o'clock, 453.

25 Q On the second one?

Flatley - Direct - Demas

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1 A Is 2105 UTC, which is 5:05 in the afternoon.

2 Q Now, as part of the work that you did in connection with
3 this case, did you examine a Mac Tower?

4 A Yes, I did.

5 Q Showing you what's in evidence as Government Exhibit 27,
6 do you see this?

7 A Yes, I do.

8 Q Do you recognize this Mac Tower?

9 A Yes, I do.

10 Q Did you examine the hard drives on that Mac Tower?

11 A Yes, I did.

12 Q Mr. Flatley, do you recognize how many hard drives were
13 on the Mac Tower that you examined?

14 A There were four, three-terabyte drives installed in the
15 Mac Tower.

16 THE COURT: We're using all this terminology, and I
17 know there's a lot of people in this room that know exactly
18 what that is, but there may be some folks who, like me, aren't
19 quite certain. Could you very briefly tell us what you mean
20 by a hard drive.

21 THE WITNESS: Sure. A hard drive is the component
22 inside a computer that actually holds things persistently. It
23 holds on to them as long as you want. It is a permanent
24 storage device, is what it is.

25 Q Is it the guts of the computer, sort of?

Flatly - Direct - Demas

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1 A The guts, you'd really call is the other -- you know, the
2 actual circuits and everything like that. This is just the
3 memory, the persistent memory.

4 Q And what is the tower itself? I mean, without the hard
5 drives, what does the tower do?

6 A Pretty much nothing.

7 Q Is it just a holding device for the hard drives?

8 A Yeah, it's an interfaced device between the person and
9 the hard drive, basically.

10 Q And in the old days, like, of Macs -- like the square
11 Macs with the hard drive inside the physical computer?

12 THE COURT: You're calling that the old days? I can
13 give you the old days. Go ahead.

14 THE WITNESS: Generally, the hard drive has always
15 been inside the computer.

16 Q But now sometimes you have a screen that can be on a
17 desk, and the hard drive is in this tower; isn't that right?

18 A Correct.

19 Q Showing you what's been marked as Government Exhibit 27A,
20 27B, 27C, and 27D. Do you see these?

21 A Yes, I do.

22 Q Can you hold them up for the jury? Can you explain for
23 the jury what these are?

24 A Let me flip them over real quick. These are the hard
25 drives that are -- that I removed from that tower.

Flatley - Direct - Demas

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1 Q I'm sorry. Mr. Flatley, did you -- I'm sorry. What are
2 these that you're looking at?

3 A These are the hard drives that I removed from that tower.

4 MS. DEMAS: Okay. The government moves Exhibits 27A
5 through D into evidence.

6 MR. SAVITT: No objection, your Honor.

7 THE COURT: For some reason I have it in evidence.
8 They're received. 27A through D, correct?

9 MS. DEMAS: Yes, sir.

10 (Government's Exhibit 27A through D were received
11 in evidence.)

12 THE COURT: Thank you.

13 Q Did you have to take these hard drives physically out of
14 this Mac Tower?

15 A Yes.

16 Q What did you do with the hard drives once you had taken
17 them out of the Mac Tower?

18 A What I do with every piece of evidence I get, I put two
19 stickers on it, one of which is the bar code number, the
20 unique number that we put on it, then the sticker with the
21 case number, my initials and the date. On these particular
22 drives, I also placed another sticker which indicates which
23 drive they were in the machine. So the Mac has the ability of
24 having four drives inside of it, so I labeled each one drive
25 1, drive 2, drive 3, drive 4.

Flatly - Direct - Demas

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1 Q And what did you do with these drives once you labeled
2 them and took them out?

3 A Once I labeled them, I put them into a forensic cloning
4 machine, and I made an exact duplicate copy of them onto
5 another hard drive.

6 Q Why did you do that?

7 A With the Mac, you can, what they call, "RAID" drives
8 together, which is you can have more hard drives up -- in this
9 case, up to three hard drives that act as one. So you can
10 take them all, and instead of you seeing it on your computer
11 as being one three-terabyte hard drive, you'll see it as one,
12 almost nine, terabyte hard drive; you won't see the individual
13 drives. And it takes that information and it spreads them
14 across those three drives, and the reason for that is in case
15 one of them fails -- because they are physical devices, and
16 they will eventually fail. So if one of them fails, you can
17 stick in a new drive and it will rebuild that information, and
18 you won't lose that information.

19 Q But more generally, what was the purpose of creating
20 clones of these drives?

21 A So in order for me to get the information off that, I
22 have to be able too rebuild that RAID, and I don't want to do
23 it with the original evidence, in case something should
24 accidentally get destroyed or one of the drives should fail.
25 So we try to touch the original evidence as little as

Flatly - Direct - Demas

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1 possible, so we make a clone or a copy of the first time, and
2 then we leave them alone after that.

3 Q And then do you work from the clone?

4 A Yes.

5 Q I'm showing you what's been marked for identification as
6 Government Exhibits 27E, F, G and H. Do you recognize these?

7 A Yes, these are the clones that I made.

8 Q And did you create those clones using some sort of
9 software?

10 A No, they were created with a Tableau TD3 Forensic Drive
11 Duplicator. It's an actual piece of hardware. It's a small
12 device which copies from one drive to another.

13 Q Is that duplicator accurate?

14 A Yes, it is.

15 MS. DEMAS: The government moves exhibits 27E
16 through H into evidence.

17 MR. SAVITT: No objection.

18 THE COURT: Received.

19 (Government's Exhibit 27E through H were received
20 in evidence.)

21 Q What does RAID stand for?

22 A RAID, yes, it stands for Redundant Array of Independent
23 Discs.

24 Q And you also mentioned terabytes. What are terabytes?

25 A An terabyte is a very large amount of storage. To put it

Flatly - Direct - Demas

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1 in a term you could understand, if you were to print out
2 what's on a 1-terabyte drive on 8-and-a-half-by-11 sheets of
3 paper and stacked those papers next to each other, it would
4 create a stack that was approximately 22 miles long.

5 THE COURT: Wait a second. One terabyte, if you put
6 individual -- one sheet, is that what you're saying?

7 THE WITNESS: Yes, sir.

8 THE COURT: Each sheet next to each other?

9 THE WITNESS: No, as in on edge. So if you stack
10 them up and push them together, it would stretch approximately
11 22 miles.

12 THE COURT: Okay.

13 Q That's just one terabyte?

14 A Yes, ma'am.

15 Q And what's a gigabyte?

16 A A gigabyte is when -- in terms, a gigabyte is 1,024
17 megabytes.

18 Q What's a megabyte?

19 A A thousand and 24 kilobytes.

20 Q What's a kilobyte?

21 A A thousand and twenty-four byte.

22 Q What's a byte?

23 A A byte is eight-fifths. A bit is a digital -- a binary
24 digit.

25 Q What is a binary digit?

Flatley - Direct - Demas

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1 A A one or a zero.

2 Q Is that how computers are coded, at the very fundamental
3 level?

4 A At the very, very base, yes.

5 MS. DEMAS: Can I just have it for the witness only?

6 THE CLERK: Certainly.

7 Q Mr. Flatley, I put on the screen what's been marked as
8 Government Exhibit 41. Do you see this?

9 A Yes, I do.

10 Q Do you recognize this photograph?

11 A Yes, I do.

12 Q What is it?

13 A It is a picture that I took of the closed files facility
14 that we have in New Jersey.

15 Q And will using this photograph enable you to explain to
16 the jury the size of the terabyte?

17 A Yes, it will.

18 MS. DEMAS: The government moves Exhibit 41 into
19 evidence.

20 MR. SAVITT: No objection, your Honor.

21 THE COURT: Twenty-one?

22 MS. DEMAS: Forty-one.

23 THE COURT: Forty-one now in evidence.

24 (Government's Exhibit 41 was received in evidence.)

25 MS. DEMAS: Can we maybe turn the lights down? I

Flatley - Direct - Demas

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1 think it's a little dark.

2 THE CLERK: I'm having a problem. I cannot dim the
3 lights at the moment.

4 THE COURT: Let me see if I can dim the lights.
5 Lord knows anything could happen now. What? Do I press video
6 conference?

7 THE CLERK: Yes.

8 THE COURT: Neither can I dim the lights.

9 MS. DEMAS: I've looked; I think the jurors can see
10 it all right.

11 THE COURT: You have your individual monitors. Do
12 the best you can.

13 Q Now, Mr. Flatley, can you explain what we're looking at?

14 A This is the FBI's closed files facility for the New York
15 office, which is out of New Jersey.

16 Q Did you take the measurements of that closed file office?

17 A Yes. The approximate size of the warehouse is two
18 football fields sitting next to each other. For demonstration
19 purposes, I measured one of the shelves and the -- got out my
20 calculator and figured out that this is approximately
21 nine-and-a-half miles' worth of shelving.

22 Q So in terms of a terabyte, if you took that whole
23 warehouse, how much would you have?

24 A You would have two of these warehouses.

25 Q Two of the warehouses and one terabyte of data?

Flatly - Direct - Demas

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1 A Yes, ma'am, approximately.

2 Q And did you say how big these warehouses are?

3 A Yes, this warehouse is the size of two football fields
4 next to each other.

5 Q Now, once you've cloned the drives from that McIntosh
6 hard drive -- excuse me -- from the McIntosh tower, what did
7 you do with the clone drives, to be able to examine what was
8 on the computer?

9 A I had to place them back into the tower, and boot the
10 tower up into what we call "target fire wire mode," which is a
11 Mac invention, where when you start the computer, you just
12 hold down the "T" key, and that, in essence, turns the
13 computer into just a big hard drive, and you can subsequently
14 connect to it through various connections and use it as if it
15 was just a hard drive.

16 Q Once you put the clone drives into the Mac Tower, what
17 did you do next?

18 A Then both -- I was able to see -- take a step back. Mac
19 only let's you -- since there are four drives available, it
20 has one drive, which is for the operating system, you cannot
21 add that drive to the RAID, you can only add the other three
22 drives. So, in essence, even though you have four drives in
23 the machine, the machine will tell you that you have two
24 drives in it; one of which was three terabytes in size and the
25 other which was approximately nine terabytes in size.

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1 Q Is that because three of the drives were RAIDed together
2 and acted as one?

3 A Yes, ma'am.

4 Q So once those two things popped up on whatever system you
5 were looking at, what did you do with the 3 terabyte drive and
6 the 9-terabyte RAID?

7 A Imaging something that large is very difficult, just for
8 sheer size reasons. So having brought the tower up in "target
9 fire wire mode," I connected my TD3 Forensic Drive Duplicator
10 to it, and I created an image of the -- of whatever volume I
11 can see at that point. Unfortunately, the TD3 doesn't really
12 report too well what you're looking at, especially since there
13 were two different volumes in there. So it gave me access to
14 the 3-terabyte drive, but it did not give me access to the
15 9-terabyte drive.

16 Q Did you get access to the 9-terabyte drive eventually?

17 A Yes, eventually. Then we had the same setup, where the
18 tower was brought up in "target fire wire mode" and connected
19 to another Mac computer, and a program called "Macquisition"
20 was used to make an image of the 9-terabyte RAID.

21 Q Were you able to make an image of both of 3-terabyte
22 drive and the 9-terabyte RAID?

23 A Yes, ma'am.

24 Q Did you create some sort of report?

25 A Yes, I did.

Flately - Direct - Demas

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1 Q What is that called?

2 A Oh, when after we process the -- are you talking about
3 after the entire thing is processed?

4 Q What's an FTK Report?

5 A Yes. FTK, Forensic Tool Kit, is still what we call it,
6 even though it's technically accessed at a lab. After we
7 process all the information and we choose what is relevant, we
8 export that to whatever it will fit on, a CD, DVD, external
9 hard drive or whatever. And that is kind of like the
10 Blacklight and Lantern Reports, it's an HGML Report. It looks
11 like a web page.

12 Q Once you had generated this FTK Report, what did you do
13 with it?

14 A It was checked into evidence.

15 Q Did you examine the contents of the 3-terabyte drive and
16 the 9-terabyte drive using the FTK Report?

17 A Yes, I did.

18 Q And does the FTK Report change the data that you pulled
19 off in any way, other than making it viewable?

20 A No, when accessed at a lab, processes, a piece of
21 evidence, what it does is it looks at that evidence, it looks
22 at the image file of that evidence, and it creates a database
23 where it stores all of the properties and things of that
24 nature in that database. And any changes you make, as far as,
25 okay, these are all my documents, these are all my pictures,

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1 these are all that, it does in that database and never
2 actually touches the evidence, it just looks at it, so to
3 speak.

4 Q And did you load that FTK Report -- the FTK Report of
5 both the 3-terabyte hard drive and the 9-terabyte hard drive
6 onto its own hard drive?

7 A Yes, I did.

8 Q What was the reason for doing that? Did it fit on a DVD?

9 A No, it was too large.

10 Q I'm showing you what's been marked as Government
11 Exhibit 33. Mr. Flatley, what is on that hard drive?

12 A On this hard drive is the FTK Reports that I generated
13 for this.

14 Q For the 9-terabyte RAID on the 3-terabyte hard drive?

15 A Yes, ma'am.

16 MS. DEMAS: The government moves Exhibit 33 into
17 evidence.

18 THE COURT: Thirty-three.

19 MR. SAVITT: No objection.

20 THE COURT: Thirty-three is now in evidence.

21 (Government's Exhibit 33 was received in evidence.)

22 Q Now, I'm going to ask you some questions about specific
23 things on that FTK Report for the 3-terabyte drive. Okay.

24 A All right.

25 Q Showing you what's been marked as Government Exhibit, and

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1 is in evidence as Government Exhibit 35I, which is a subpart
2 of the -- why don't you explain to the jury what it's a
3 subpart of?

4 A This is a what we call a "bookmark," which is when we
5 find something, you make a bookmark of it so you can find it
6 again, and we generate the report off of those bookmarks.
7 This particular file here is a thumbnail, which is a small
8 representation of a picture; and it has the name of it, the
9 size, when it was created and where it was located on the
10 drive.

11 Q What is the creation date for this -- first of all,
12 please tell the jury what it is that this thumbnail is of. Is
13 it an image --

14 A It's a thumbnail of a picture of a woman.

15 Q And what's the creation date on this thumbnail?

16 A The created date is November 28th, 2005.

17 Q Now, can you explain for the jury what a creation date
18 means? Does it mean that that's when this photograph was
19 taken, or does it mean that that's when this photograph first
20 appeared on this particular computer?

21 A It's when the photograph came on -- came into existence
22 on this particular volume, this particular drive.

23 Q Okay. So if I took a picture a month ago and connected
24 up my iPhone to my computer today, what would the creation
25 date be?

Flatley - Direct - Demas

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1 A The creation date on would be the date that you loaded it
2 onto that system.

3 Q So it would be today?

4 A Correct.

5 Q And what, if anything, can you tell from this photograph,
6 based on the creation date, is it possible that it was taken
7 after the creation date?

8 A If the clock on the computer is correct, then, no.

9 Q And, I'm sorry, just to be clear, even though this
10 exhibit is marked 35, I just want to be clear that this came
11 from what's in evidence as Exhibit 33. It's just a marking
12 mechanism.

13 Now, Mr. Flatley, was it possible to click on that
14 thumbnail and get an enlarged version of the photograph?

15 A Yes.

16 MS. DEMAS: I'm putting on the screen Government
17 Exhibit 35B, which is a subsection of what's in evidence as
18 Government Exhibit 33.

19 Q What is this?

20 A It's an enlarged version of that picture.

21 Q I'm sorry. And which hard drive -- was it the 3-terabyte
22 hard drive or the 9-terabyte RAID that this photograph came
23 from?

24 A This actually came off of the 3-terabyte operating system
25 hard drive. When I created the actual image, I wasn't sure

Flately - Direct - Demas

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1 which volume I was looking at, and I mislabeled it as being
2 the 9 terabyte when it should have been the 3.

3 Q Is that what appears in the file?

4 A Yes, ma'am. If you start at the very beginning, it says
5 9 TD RAID, but what tells me that it was off of the operating
6 system drive is because it has the user's path on it.

7 Q So that error, that naming error, does that appear
8 throughout this report?

9 A Yes, it does.

10 Q But does that error effect your ability to tell what
11 you're actually looking at all?

12 A No, it does not.

13 Q What reason, if any -- why did you not then go and rename
14 this entire thing, the 3-terabyte RAID once you realized you'd
15 made that error?

16 A Because when it makes that particular image, it breaks it
17 down into 2-gigabyte chunks, so there was 1500 2-gigabyte
18 chunks. So instead of renaming all those 1500 2-gigabyte
19 chunks, just knew that -- you know, made the note that, yes,
20 this is, in fact, just the wrong name on it and moved on from
21 there.

22 Q Would it be fair to say to rename all of these files
23 would have taken a very long time?

24 A Yes.

25 Q Showing you what's in evidence as Government Exhibit 35C,

Flatly - Direct - Demas

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1 which is a snippet taken from Government Exhibit 33. Do you
2 see this?

3 A Yes, I do.

4 Q And can you explain to the jury what we're looking at?

5 A It is a thumbnail image of the defendant's driver's
6 license.

7 Q Was that saved so this -- and which hard drive was this
8 driver's license saved to, the 3 terabyte or the 9?

9 A The 3.

10 Q 35D. Could you explain what this is?

11 A It's an enlarged version of that thumbnail.

12 Q Now, when you were going through the 3-terabyte drive and
13 the 9-terabyte RAID, did you find any indications of
14 encryption?

15 A I did find that the program PGP had been installed.

16 Q What is PGP?

17 A PGP stands for Pretty Good Privacy. It is a program that
18 is designed to encrypt things, which is to -- to make them so
19 you can't view them unless you know the password, or have a
20 key or something along those lines.

21 Q I'm putting up 35B, which comes from Government
22 Exhibit 33. Would you explain to the jury what we're looking
23 at?

24 A This is the PGP private keyring files and the backup.
25 It's three keyrings.

Flatly - Direct - Demas

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1 Q And what does it mean that the physical size and logical
2 size are zero of what we're looking at?

3 A That means that we have -- where the -- for lack -- I
4 like to describe hard drives as if they were a library, so you
5 have the card catalog and you have the books sitting on the
6 shelf. This would be the card catalog entry for those files,
7 and there's no book on the shelf for that, the file size is
8 zero.

9 Q Does that mean that PGP was at some point on the
10 3-terabyte drive?

11 A Yes, it was.

12 Q But no longer?

13 A This is -- these are just the keyrings. I couldn't make
14 that plain without seeing more of the filepath.

15 Q Showing you Government Exhibit 35F, which also comes from
16 what's in evidence as Government Exhibit 33, could you explain
17 what this is?

18 A These are more of the keyrings for PGP.

19 Q Government Exhibit 35G, what is this?

20 A It is a PDF file of the instructions on how to use PGP.

21 Q Did you find this on the 3-terabyte drive?

22 A Yes, we did.

23 Q And I'm showing you Government Exhibit 35H. What is
24 that? Which also comes from, I'm sorry, Government
25 Exhibit 33, which is in evidence?

Flatly - Direct - Demas

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1 A It is a folder entitled "contents" from the 3-terabyte
2 drive for a program called Log Me In, The installer.

3 Q What is Log Me In Installer allow you to do?

4 A Log Me In is a program that allows you to remotely access
5 computers from another site.

6 Q For example, if one has a laptop and it's at a location
7 far away, it would enable you to access your home computer
8 through that laptop?

9 A Yes, it would.

10 Q Now, when you were examining the 3-terabyte drive and the
11 9-terabyte RAID, did you find encrypted DMG files?

12 A Yes, I did.

13 Q Could you explain for the jury what a DMG file is?

14 A Sure. A DMG file is a construct in the Mac operating
15 system, which is -- DMG stands for disc image, so it's a file
16 that behaves as if it were an actual disc. So you go to the
17 disc utility program, and you create a disc image file, and
18 you tell it how big you want it to be or how big you want it
19 to grow to be. You can also, at that point, encrypt it and
20 protect it with a password. Then after it creates that file,
21 you can use it just like a disc; you can move files in and
22 out, delete stuff, you can put stuff in. And that is
23 generally how they do software installs on the Mac platform.
24 They'll give you DMG file. You click on it twice. It comes
25 up as a little disc, and then you can take files in and out as

Flatly - Direct - Demas

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1 you need them.

2 Q Did you find DMG files on the 3-terabyte hard drive?

3 A Yes, I did.

4 Q Were you able to open these DMG files?

5 A No, I was not.

6 Q Do you have any idea of what was on these DMG files?

7 A None at all.

8 Q Could photographs be on the DMG files?

9 A Yes.

10 Q Could videos be on the DMG files?

11 A Yes.

12 Q And did you even find these DMG files right away?

13 A No, I did not.

14 Q Why is that?

15 A Generally, that's not something we look for. Being that
16 it's how programs are transported back and forth, they're
17 generally pretty innocuous.

18 Q What is an Internet cash?

19 A When your computer or your browser goes out to the
20 Internet, it doesn't let you view the files directly off the
21 Internet, it downloads those files from the Internet onto your
22 hard drive and then it creates the page off of your hard
23 drive. The cash is that area of the hard drive where those
24 files are saved.

25 Q And does the cash -- can the cash show you an image of

Flatly - Direct - Demas

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1 what you actually looked at on the Internet?

2 A Yes, it does.

3 Q Were there also DMG files on the 9-terabyte RAID?

4 A I don't recall, but I believe there were. I'm not a
5 hundred percent sure.

6 Q Did you also examine an Apricorn external hard drive?

7 A Very briefly.

8 Q Showing you what's in evidence as Government Exhibit 26.
9 Do you recognize this? You can open it, if you need to.

10 A Yes, I do.

11 Q What is it?

12 A It is the Apricorn hard drive that was seized from the
13 defendant.

14 Q Now, did you receive this Apricorn hard drive from the
15 case agent?

16 A Yes, I did.

17 Q What did you do with it?

18 A I pretty much gave it right back to him and told him to
19 send it back to headquarters.

20 Q Why is that?

21 A This kind of hardware, there often can be, in essence,
22 booby traps, destructive programs that might activate if you
23 start examining it and don't know what you're doing. I am not
24 an expert on encryption or anything like that, so the safest
25 bet was to give it to headquarters.

Flatley - Direct - Demas

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1 Q Now, did you receive a decrypted version of this Apricorn
2 hard drive back at any point in time?

3 A Yes, I did.

4 Q What did you do with the decrypted Apricorn?

5 A I handled it just like I handle all of the other evidence
6 I get, marked it, and copied that image off and ran it through
7 FTK.

8 Q Did you personally review any of the contents of that --
9 excuse me -- any of the contents from the Apricorn drive that
10 you received back just to spot-check it?

11 A Yes, I did.

12 Q And did you see any child pornography inside?

13 A Yes, I did.

14 MS. DEMAS: Can I take a moment, your Honor? I have
15 no further questions.

16 THE COURT: Mr. Savitt, do you have questions of
17 this witness?

18 MR. SAVITT: Yes, but not too many.

19 CROSS-EXAMINATION

20 BY MR. SAVITT:

21 Q Mr. Flatley, good morning.

22 A Good morning.

23 Q Now, I remember the good ol' days, and I try to keep up
24 with the new days and the not-so-good new days.

25 You told us that one terabyte is essentially enough

Flatley - Cross - Savitt

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1 digital memory to produce 8-and-a-half-by-11 hard copy paper
2 that could fill up two FBI warehouses?

3 A Yes, sir.

4 Q Okay. And when you say that filling up FBI warehouses,
5 as we saw in that photograph when we couldn't dim the lights,
6 are you talking about across the floor or from floor to
7 ceiling?

8 A Just stacked as you normally would stack on a file
9 cabinet or a shelf.

10 Q So in other words, from floor to ceiling and all across?

11 A I think I'm not making myself clear. It's not all the
12 way to the ceiling or all the way to the floor, it's just what
13 would be usable for a regular person.

14 Q All right. So assuming that, and this is a large
15 assumption that I'm a regular person, are you talking about
16 something around five-foot-ten across?

17 A Yeah, something along those lines.

18 Q And that's a lot of documents, right?

19 A It is.

20 Q And, in fact, you told us that one warehouse of all of
21 these stacked documents would be enough to fill up two
22 football fields of the five-foot-ten across stacked documents;
23 am I right?

24 A Yes, that's correct.

25 Q You also told us that if you put papers edge to edge,

Flatley - Cross - Savitt

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1 sort of like I'm holding up two papers, margin to margin, that
2 one terabyte would produce 22 miles of 8-and-a-half-by-11
3 papers, right?

4 A No, sir. If they're face-to-face.

5 Q Face-to-face?

6 A Yes, sir.

7 Q So has even much --

8 A As they're stacked in that photograph, as you would
9 normally --

10 Q So actually -- you're talking about if it were stacked
11 like this?

12 A Yes, sir.

13 Q So eventually we're talking about vertically?

14 A Correct.

15 Q Each 8-and-a-half-by-11 stacked right next to each other
16 22 miles' worth in one terabyte; am I correct?

17 A Approximately, yes, sir.

18 Q Now, you found in the tower that there was a 3-terabyte
19 operating drive and a 9-terabyte RAID?

20 A Yes, sir, approximately 9 terabytes.

21 Q When you say approximately 9 terabytes -- well, what's a
22 RAID?

23 A A RAID is one disc that acts -- I'm sorry. Many discs
24 that act as one, so it, in essence, can cap something together
25 so it looks like a larger volume than it is.

Flately - Cross - Savitt

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1 Q So if I can understand -- if I can follow you -- you're
2 probably making yourself clear, but I can't totally follow
3 you. Does that mean that we have the equivalent of 12
4 terabytes in that tower?

5 A Yes, sir.

6 Q And were they -- did you find out that ultimately that
7 they were full of digital images or videos?

8 A There was a lot of videos and images on there, yes, there
9 was.

10 Q Of the 12 terabytes, approximately, that were found in
11 the tower, how much of that, percentage wise, were these
12 videos and images, approximately? I know that you didn't
13 quite analyze it in that fashion.

14 A I would say predominantly.

15 Q So predominantly, in the 12 terabytes, we have digital
16 images, we have digital videos, correct?

17 A Yes, sir.

18 Q Not too many empty shelves; am I right?

19 A As far as I can remember, yes, sir.

20 Q Now, 12 terabytes -- let's just say it's 12 terabytes
21 because it's predominantly, as you recall, full of images and
22 videos, that would be 48 football fields, right?

23 A Yes, sir.

24 Q Twelve terabytes would be 264 miles of 8-and-a-half-by-11
25 hard papers, vertically stacked right next to each other as if

Flatley - Cross - Savitt

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1 they were standing like dominos, right?

2 A Correct.

3 Q And that's 264 miles; am I correct?

4 A I didn't do the math, but I'd agree with you.

5 Q Did you ever analyze how long it would take a human being
6 to look through 248 miles of 8-and-a-half-by-11 hard pages of
7 images?

8 A The program that we use allows us to categorize things so
9 that you don't have to look through everything, so to speak.
10 So if you are looking for images, for instance, it will boil
11 down, okay, here are your images; if you're looking for
12 videos, here are your videos. So you can eliminate a lot of
13 items that are not of interest to us. We also have a thing
14 called the KFF, which is the Known File Filter. So we have
15 identifying numbers called hash values for a certain programs,
16 for instance. Like if we have Microsoft Word, for instance,
17 we know for that program what that hash value is. We have a
18 list of that. So we can say, you know, this is Microsoft
19 Word, we don't need to look at that; that's just a program, we
20 can exclude that.

21 Q Understood. So what percentage of the 264 miles would be
22 digital images or videos?

23 A I wouldn't really be able to answer that. That's not a
24 determination that I made.

25 Q So the answer is you don't know?

Flately - Cross - Savitt

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1 A Correct.

2 Q Would it be predominantly?

3 A Then that's speculation on my part, but I would say there
4 was a lot of pictures and videos.

5 Q So, in other words, you can't quantify it and you can't
6 tell us how long it would take a person to look through all
7 the digital images and videos?

8 MR. SAVITT: No further questions.

9 THE COURT: Anything else?

10 MS. DEMAS: Just quickly, your Honor.

11 REDIRECT EXAMINATION

12 BY MS. DEMAS:

13 Q In terms of the videos and images that you were able to
14 review, that means you could get into them, correct?

15 A Correct.

16 Q And you don't know how many DMG files were on this
17 computer that you could not get into?

18 A I could not give you a number, no.

19 Q There were multiple; is that right?

20 A Yes.

21 Q And just to clarify for the jury, what is a hash value?

22 A A hash value is -- it's an algorithm. It's a math
23 problem. So every file on a computer is basically ones and
24 zeros. What we do to identify that file uniquely is to run it
25 through this math problem, and it generates a very large

Flatley - Cross - Savitt

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1 number that uniquely identifies whatever set of data you're
2 pointing at. You can point it at one file. You can point it
3 at a folder. You can point it at an entire hard drive, and it
4 will generate a number that represents that data uniquely for
5 that set.

6 MS. DEMAS: Thank you.

7 MR. SAVITT: Nothing further. Thank you.

8 THE COURT: Thank you Mr. Flatley. Please step
9 down.

10 THE WITNESS: Thank you.

11 THE COURT: Let's see. Next witness, please.

12 MS. DEMAS: Government calls Jason Abramowitz.

13 THE COURT: Can I have the name of that witness,
14 please.

15 THE CLERK: Good morning.

16 THE WITNESS: Good morning.

17 THE CLERK: Ask you, sir, to please take the stand
18 and raise your right hand. Do you swear or affirm that the
19 testimony you shall give in this case, now on trial before
20 this Court and Jury, will be the truth, the whole truth and
21 nothing but the truth, so help you God?

22 THE WITNESS: Yes.

23 THE CLERK: Thank you. Please have a seat. State
24 and spell your name for the record.

25 THE WITNESS: Jason Abramowitz, J-a-s-o-n,

Abramowitz - Direct - Smith

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1 A-b-r-a-m-o-w-i-t-z.

2 JASON ABRAMOWITZ,
3 called as a witness, by and on behalf of the government,
4 having been first duly sworn, was examined and testified as
5 follows:

6 DIRECT EXAMINATION

7 BY MR. SMITH:

8 Q Good morning, Mr. Abramowitz.

9 A Good morning.

10 Q Who do you work for?

11 A Federal Bureau of Investigation.

12 Q How long have you been with the FBI?

13 A Twelve years.

14 Q What's your current title?

15 A I'm a computer scientist.

16 Q How long have you been a computer scientist?

17 A Approximately one month.

18 Q Before you were a computer scientist, what was your title
19 with the FBI?

20 A Electronics Engineer.

21 Q How long were you an Electronics Engineer?

22 A When I first started with the Bureau, approximately
23 12 years.

24 Q When you were in your position as Electronics Engineer,
25 were you assigned to a particular unit?

Abramowitz - Direct - Smith

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1 A Yes, I was assigned to CEAU or Crypto Logic Electronics
2 Analysis Unit.

3 Q What is the function of the Crypto Logic Electronics
4 Analysis Unit?

5 A We support the field offices with evidence or devices
6 that come in from cases that are -- they're wanting to extract
7 data off these devices, any kind of electronic device,
8 answering machines, hard drives that the field office can't
9 access that data, because of -- it's either encrypted or it
10 has password locks; has some level of functionality that the
11 field office cannot access the data, so they send it up to us
12 in Quantico, which is considered headquarters, to work on
13 these type of devices that the field is not capable of working
14 on.

15 Q What were your particular duties in that unit?

16 A I was a forensic examiner.

17 Q What was your educational background before the FBI?

18 A Bachelor of Science in Electronics and Electrical
19 Engineer.

20 Q Did you at some point receive evidence connected to the
21 investigation of Bebars Baslan?

22 A Yes.

23 Q Approximately when was that?

24 A April 5th, around. I received evidence in our Evidence
25 Control Center that needed to be examined to extract data off.

Abramowitz - Direct - Smith

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1 Q April 5th of 2013?

2 A That is correct.

3 Q What type of evidence did you receive at that point?

4 A I received external hard drive. It's a USB-connected
5 hard drive, and it had "Keypad" on the front for Internet
6 code, but it was produced by Apricorn.

7 Q Up at the witness stand is Government Exhibit 26, which
8 is in evidence. Can you take a look at that?

9 A Yes.

10 Q Do you recognize that?

11 A Yes, I do.

12 Q What do you see it as?

13 A This was specimen that was sent in and around that date.
14 I can see my lab number that's written on it, and the cue
15 specimen I wrote on the back of the device and then the hard
16 drive itself is the sub cue number.

17 Q That device is in several pieces now. Was it in the same
18 condition when you got it?

19 A No, when we received it, it was sealed up. It appeared
20 that it was never opened before, as if it was a new from the
21 factory.

22 Q Can I take that back from you?

23 A Yes. Would you like it in the bag?

24 Q No. Doesn't matter.

25 MR. SMITH: Could you turn on the document camera.

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1 THE CLERK: Certainly.

2 Q Mr. Abramowitz, after you received this particular piece
3 of evidence, what did you do?

4 A We went out, and in our group, we had funding. We
5 purchased a couple of these devices off the market so we could
6 test how the device works.

7 Q Did you become familiar with the way the device
8 functioned?

9 A Yes.

10 Q Can you just explain to us what the pieces of this device
11 are? I'm going to put up the top piece first.

12 A That's the external plastic that houses the electronic
13 board and the hard drive itself. That is the keypad which
14 would display through, on the last plastic piece you showed.
15 So the key pad is a source for the user to enter a code or a
16 password to unlock the device. And then hanging off the
17 bottom is your standard USB port, and that is what the user
18 would use to plug into the computer to access the data. If
19 you flip the device over, that is where the hard drive would
20 plug into it, so it has a standard hard drive connection, a
21 sata connection, where the two-and-a-half inch hard drive
22 would connect in. And then once it's unlocked or a key
23 combination's applied correctly, then the data would transfer
24 through the USB to the computer.

25 And that is the hard drive that contains the data.

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1 The data on that hard drive, when it's set up and placed with
2 a code, the data is encrypted or scrambled. If you looked at
3 it -- if you unplugged this hard drive in the state that it is
4 and plugged it into a computer directly without going through
5 that last board that we were shown, that data would not
6 display. That data would look like -- we call it garbage data
7 because it is encrypted. So the device has to be decrypted
8 before viewing. And in the manufacturer, when it goes through
9 that last board and the correct password is placed in, then
10 the data would be viewable.

11 Q Can you describe how somebody would use this hard drive
12 just in normal use?

13 A They would plug it into the computer, either Mac or
14 Windows personal computer. And the device itself wouldn't
15 display or mount itself like a traditional external hard
16 drive; you wouldn't see all your files. You put in your key
17 combination, which was configured when you first bought it.
18 Once you actively, on the keypad, place the correct
19 combination in, then the device would mount itself to the
20 desktop and show its files. But before that, you wouldn't be
21 able to access any of the data. It's encrypted drive.

22 Q What are the purposes of encryption?

23 A It's for security for protection of your data. So just
24 like if you would put -- if you had a file, an old-standard
25 files cabinet and you put all your data in it, any kind of

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1 folders, important folders, then you would turn the key and
2 make sure no one else could get into that file cabinet.

3 Q Are there different types of encryption?

4 A Yes. There's software encryption, and that is where the
5 encryption is being done in the operating system. Some of the
6 operating systems, like Windows and Mac have. They're a
7 built-in bit locker, where it encrypts and decrypts on the
8 system. There's hardware encryption, like this device, so all
9 the encryption and decryption is not done in the operating
10 system or on the Windows PC. It is done on the device. There
11 are little chips on there that are processors, and it has
12 memory, and that is what is doing the encryption and
13 decryption. And the operating system doesn't recognize or
14 really see a difference, because once something is keyed in on
15 the device itself, it just accesses it as normal.

16 Q Just putting the device back up, does -- black spots on
17 the right side, are those where the chips are located that
18 actually have the technology that would decrypt and encrypt
19 the data on this hard drive?

20 A That is correct. The manufacturer -- everyone, when they
21 make a product like that, for sensitivity and security, they
22 usually put -- this had as an Epoxy coding over the chips, so
23 one of the chips would be the processor, the other one would
24 be a ram chip. So it limits the amount of tampering so
25 someone can get into the device and probe it.

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1 Q So the Epoxy is to prevent someone from looking at the
2 chips themselves?

3 A That is correct.

4 Q Now, after you received this device, in connection with
5 this case, and then got those other devices, what did you do?

6 A Well, that drive itself that I talked about earlier,
7 about having garbage data or unrecognizable data if you didn't
8 have the combination, that is still the original evidence. So
9 to preserve that evidence, I made a clone of that drive, so
10 that entails a copying safe sectors from the beginning of the
11 drive sector zero, to the end of the drive onto another drive
12 so I could preserve it. So any of the work we're doing on
13 that hard drive would have been done on this other hard drive.
14 That other hard drive I labeled or gave it a label of working
15 copy of Q1.1, because the original was Q1.1.

16 Q Just for clarity, you took this device that we just
17 looked at out of the Apricorn hard drive and copied that over
18 to another one?

19 A That is correct, and it was, like I stated, in a clone or
20 bit, sector-to-sector copy.

21 Q What did you do with that cloned copy?

22 A I transferred that copy to another person in our unit,
23 and his name is Dr. Boudaoud, and I also, at the same time,
24 gave him another hard drive, which I labeled -- which was
25 called a "wipe drive." So I took another hard drive and then

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1 cleared out the data, to make sure there's no remnants on
2 there. And I gave that also to Dr. Boudaoud.

3 Q Did you ultimately receive anything back from
4 Dr. Boudaoud?

5 A Yes, I received the working copy of Q1.1 back. Then I
6 also received that white copy back, but he had added data on
7 onto it. He decrypted the Q -- working copy of Q1.1 and
8 placed that data -- or decrypted that data onto that other
9 drive I gave him that was previously wiped. I then when I
10 received that drive, I labeled that one working copy of
11 decrypted data Q1.1.

12 Q What did you do after you had the working copy of the
13 decrypted data?

14 A I then -- I imaged that drive. Imaging is somewhat
15 differently than cloning. It allows me to make exact
16 duplicate of that drive but as an imaged file. So instead of
17 sector-to-sector copy, it is a sector to file copy, which
18 allows me to put verification or hashing to preserve the data.
19 So this drive was now imaged up to another drive, which I call
20 "Derivative Evidence 1" or DE1. This drive contains images,
21 files of that decrypted data. The purpose of making this is
22 it gives me a hash set or a verification, so anyone else who
23 works on this drive later can verify that my data has not
24 changed, because once data is changed, just one little of bit
25 data change, one bit out of billions of bites will change that

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1 hash tag, so it's a process that we call "verification."

2 Q Let me show you Government Exhibit 32 for identification.

3 You can take a look? You can take it out of the box?

4 A Okay.

5 Q Do you recognize Government Exhibit 32?

6 A Yes. It has my lab number, case ID, and states DE1, all
7 written by myself.

8 Q Is that the DE1 you were talking about a moment ago?

9 A Yes. This is the hard drive that contains imaged files
10 of the encrypted data from that original Q1.

11 MS. DEMAS: The government offers Government
12 Exhibit 32.

13 THE COURT: Any objection?

14 MR. SAVITT: No.

15 THE COURT: Thirty-two in evidence.

16 (Government's Exhibit 32 was received in evidence.)

17 Q Mr. Abramowitz, after you received the decrypted data
18 back, did you take any further steps regarding that data?

19 A I was asked to look at a few files, I guess, for a
20 hearing that was coming up at that point in time.

21 Q And what was the nature of those files?

22 A I looked at all the data on it, the file system and the
23 file names. But all the files had conformed to child
24 pornography file names, stating a sex of, say, a year, like,
25 say the file looked at was 8 Y0, so eight year old. And then

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1 it had, like, female, a description of what the file would be
2 inside, so --

3 Q Did you ultimately look at a couple of files?

4 A I was told to look at and verify two files for this
5 special hearing, to verify that, indeed, this derivative
6 evidence contained child pornography.

7 Q Were the files you looked at child pornography?

8 A Yes.

9 Q What did you ultimately do with this drive Government
10 Exhibit 32?

11 A It was only put back into our evidence control in
12 Quantico with the original Q1 evidence and then sent back to
13 the New York field office.

14 MS. DEMAS: No further questions.

15 THE COURT: Mr. Savitt, any questions?

16 MR. SAVITT: No, your Honor.

17 THE COURT: Thank you, sir. You may step down,
18 Mr. Abramowitz.

19 THE WITNESS: Thank you.

20 THE COURT: Next witness.

21 MS. DEMAS: Your Honor, our next witness is in
22 route. We ask -- she will be here in about five minutes. We
23 suggest that in light of that fact, maybe right now would be a
24 good time for the morning break.

25 THE COURT: And if I don't adopt your suggestion?

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1 MS. DEMAS: I suppose we can all wait.

2 THE COURT: Let's hope she's in route and close by.

3 We'll take a morning break, folks. Don't discuss
4 the case.

5 (Outside the presence of the jury.)

6 THE COURT: All right. Do you have a fix on him?

7 MS. DEMAS: She's on her way with the agent right
8 now.

9 THE COURT: From Omaha or --

10 MS. DEMAS: No, from Downtown Brooklyn.

11 MR. SMITH: Just to note, we sent an agent to
12 collect her approximately an hour-and-a-half ago, so it's a
13 bit of a process.

14 THE COURT: And who is this, now?

15 MR. SMITH: Courtney.

16 MS. DEMAS: Your Honor, our final witness is
17 arriving at noon on a train from Pen Station. We don't expect
18 him to be here until 1:00. We made him move his schedule
19 around to get here. That was the earliest we could. Once
20 we're finished with this witness, in order to avoid delaying
21 the jury further, we suggest an early lunch today and that way
22 the witness will be the stand by the time they get back, and
23 that will be the rest of the government's case.

24 THE COURT: We have to stop at 4:00 today, so I hope
25 we can get it all in.

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1 MR. SMITH: We can get him done by 4:00.

2 THE COURT: All right.

3 MR. SMITH: Thank you.

4 (Recess.)

5 (Proceedings continued on the following page.)

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PROCEEDINGS

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1 THE COURT: Where is Ms. Demas?

01:45

2 MR. SMITH: She was E-mailing the agent with the
3 witness and they indicated she pulled in, so she went to get
4 the agent with the witness to try to get her up here as
5 quickly as possible.

01:45

01:45

01:45

01:45

6 THE COURT: Where is Mr. Savitt?

01:45

7 COURTROOM DEPUTY: Is Mr. Savitt in the back with
8 his client?

01:45

01:45

9 THE COURT: No. The client is right there.

01:45

10 COURTROOM DEPUTY: Okay.

01:45

11 (Mr. Savitt entered the courtroom.)

01:46

12 THE COURT: All right. Gentleman, why we wait for
13 the witness, I think Ms. Mulqueen has already alerted you to
14 our concern about these exhibits that are coming in,
15 multiple-part exhibits. For example, 33 is one -- it's got
16 all these subparts. No, not 33, 25. When you are offering
17 an exhibit, 25, and it has multiple subparts going all the
18 way up to YY -- yesterday, it seemed to me that all of that
19 was admitted because during the examination, the attorney
20 either you or Ms. Demas dealt with specific subparts of 25
21 such as YY, for example. So -- and yet, on another
22 instance, 35-A through I. Are they all now in evidence?
23 Usually when we --

01:46

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01:48

24 MR. SMITH: I think Ms. Demas meant to move them
25 into evidence. Exhibits 35-A through I are all a subset of

01:48

01:48

PROCEEDINGS

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1 Exhibit 33, which was a numbering error. Normally, we would
2 number them 33-A through I. So we'll look over our list and
3 clarify, but we can offer those subparts.

4 THE COURT: I want to make sure our record is
5 clear. Your colleague here as an opportunity to weigh in if
6 we disagrees. Are we ready to go, Ms. Demas?

7 (Ms. Demas entered the courtroom.)

8 MS. DEMAS: I'm sorry, the witness is in the
9 bathroom, she'll be here as soon as she's out of the
10 bathroom.

11 THE COURT: That could be another half hour.

12 MS. DEMAS: No, I don't anticipate that.
13 Understandably, your Honor, the witness is very nervous.

14 THE COURT: Okay. I can understand.
15 I take it that you don't request a clarifying
16 limited instruction of any sort regarding this woman's
17 testimony?

18 MR. SAVITT: No. Thank you. I just wanted to
19 clarify with my colleagues from the prosecution what
20 exhibits we're talking about, just to remind me.

21 MS. DEMAS: That were just used?

22 MR. SAVITT: The 35-A through E, I believe.

23 MS. DEMAS: It was 35-A through I, they were all
24 saved that were pulled off of the three terabyte Mac drive.

25 MR. SAVITT: So it was 35-A through I?

PROCEEDINGS

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1 MS. DEMAS: Yes. Let me just double check. 01:49

2 THE COURT: I have them in evidence. 01:49

3 MS. DEMAS: I'm sorry? 01:49

4 THE COURT: I have them in evidence. 01:49

5 MS. DEMAS: Right. Because I said on the record 01:49
6 they were all subparts of Exhibit 33, which was in evidence. 01:49

7 THE COURT: In that instance you did. 01:49

8 MR. SAVITT: And I have no objection to there -- I 01:49
9 mean, they're all already received, but I didn't have an 01:49
10 objection to it. 01:50

11 THE COURT: I want to make sure that we're all on 01:50
12 the same page, so go through them all with Ellie. 01:50

13 MS. DEMAS: All right. 01:50

14 THE COURT: All right. You still expect that it 01:50
15 may be necessary to take an early lunch? 01:50

16 MR. SMITH: Your Honor, we've actually got two 01:50
17 witnesses after this one. We have the computer science 01:50
18 technician who encrypted the hard drive, and we have an 01:50
19 agent who will testify about its contents. We asked the 01:50
20 agents to come now so we can take them out of order. And 01:50
21 essentially, all of her testimony, or at least a substantial 01:50
22 portion, relates to things that, you know, his testimony is 01:50
23 necessary for, but we can ask that it be admitted subject to 01:50
24 that connection. 01:50

25 THE COURT: I don't mind taking an early lunch, I 01:50

CORTNEY - DIRECT/MS. DEMAS

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1 just want to know what I'm doing. You tell me, when we 01:50
2 finish with this witness. It's only ten after 11 now. 01:50

3 MR. SMITH: I think if we make it past the noon 01:51
4 hour, then I think we would ask that we just take an early 01:51
5 lunch, and then we'll line up our witnesses and we'll be 01:51
6 done well in advance of four. 01:51

7 THE COURT: All right. 01:51

8 (Jury is in the courtroom at 11:17 a.m.) 01:55

9 (Witness takes the stand.) 01:55

10 THE COURT: All right. Please be seated everyone. 01:55
11 Will you announce your witness, please, Ms. Demas. 01:55

12 MS. DEMAS: The government calls Cortney to the 01:56
13 stand. 01:56

14 01:56

15 **CORTNEY**, called by the Government, having been first duly
16 sworn, was examined and testified as follows:

17 01:56

18 COURTROOM DEPUTY: Thank you. Please have a seat. 01:56

19 THE COURT: All right. Ms. Demas? 01:56

20 DIRECT EXAMINATION

21 BY MS. DEMAS:

22 Q Good morning. 01:56

23 A Morning. 01:56

24 Q Can you say your first name for the jury, please. 01:56

25 A Yes, it's Cortney. 01:56

CORTNEY - DIRECT/MS. DEMAS

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1	Q	How do you spell that?	01:56
2	A	C-o-r-t-n-e-y.	01:56
3	Q	How old are you?	01:56
4	A	24 years old.	01:56
5	Q	Where did you live when you were 14 to 16 years old?	01:56
6	A	I lived in the Buffalo area.	01:56
7	Q	Do you know the defendant, Bebars Baslan?	01:56
8	A	Yes, I do.	01:56
9	Q	Do you see him in the courtroom?	01:56
10	A	Yes.	01:56
11	Q	Could you please indicate who the defendant is based on	01:56
12		where he's sitting and what he's wearing?	01:56
13	A	He's wearing a suit and he's right there (indicating).	01:57
14		MS. DEMAS: For the record, the witness has	01:57
15		indicated the defendant.	01:57
16		THE COURT: All right.	01:57
17	Q	When did you first meet the defendant?	01:57
18	A	When I was 15 years old.	01:57
19	Q	And what year was that, do you remember?	01:57
20	A	2005.	01:57
21	Q	And in what context did you first meet the defendant?	01:57
22	A	Through a photo shoot.	01:57
23	Q	And could you just explain for the jury how that photo	01:57
24		shoot came about?	01:57
25	A	There was a Hunter's Hope Beauty Pageant in 2005, the	01:57

CORTNEY - DIRECT/MS. DEMAS

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1 summer of, in Buffalo, New York, and my best friend at the 01:57
2 time had won the prize and it was a professional photo shoot 01:57
3 with Mr. Baslan. 01:57

4 Q Without saying the last name, what is the first name of 01:57
5 this friend of yours who won the beauty pageant? 01:57

6 A Andrea. 01:57

7 Q And did you go with Andrea to any photo shoots? 01:57

8 A Yes. 01:58

9 Q Either photo shoot or photo shoots that the defendant 01:58
10 did? 01:58

11 A Yes, I did. 01:58

12 Q And by the way, did you also complete in the Hunter's 01:58
13 Hope Beauty Pageant? 01:58

14 A Yes, I did. 01:58

15 Q How old was Andrea at the time of the Hunter's Hope 01:58
16 Beauty Pageant? 01:58

17 A She was 14. 01:58

18 Q And when did Andrea turn 15? Just give me the month of 01:58
19 that year, 2005. 01:58

20 A You know, I honestly don't even -- can't even think of 01:58
21 the actual month of her birthday right now. 01:58

22 Q Now, can you explain for the jury how it is that you 01:58
23 came to go to a photo shoot with Andrea that involved the 01:58
24 defendant? 01:58

25 A Andrea called me and invited me, because she also knew 01:58

CORTNEY - DIRECT/MS. DEMAS

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1 that modeling was something I was very, very interested in 01:58
2 and passionate about. 01:59

3 Q Where did the photo shoot take place? 01:59

4 A Downtown Buffalo, on Main and Tupper, which are 01:59
5 streets. 01:59

6 Q Main Street and Tupper Street? 01:59

7 A Yes. 01:59

8 Q What kind of space did the photo shoot take place in? 01:59

9 A In a spacious photography studio. 01:59

10 Q Do you know what the studio belonged to? 01:59

11 A Mr. Baslan. 01:59

12 Q How do you know that? 01:59

13 A It was his. His name was also on the door. 01:59

14 Q Who was there for the photo shoot? 01:59

15 A Andrea, myself and Mr. Baslan. 01:59

16 Q How old were you at the time? 01:59

17 A 15 years old. 01:59

18 Q How old was Andrea? 01:59

19 A 14. 01:59

20 Q And at what time of year did the photo shoot take 01:59
21 place; summer, fall, winter? 01:59

22 A Summer. 01:59

23 Q Can you explain to the jury what happened at this photo 01:59
24 shoot? 01:59

25 A Yes. I arrived at the photo shoot with two suitcases 01:59

CORTNEY - DIRECT/MS. DEMAS

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1 with clothes, like, wardrobe you bring to photo shoots, it's
2 common, and as I was changing into different outfits, at the
3 time I walked over to the far side of the studio where there
4 was a backdrop and a couch, where then I witnessed
5 Mr. Baslan being sexually intimate with Andrea.

6 Q What did you do mean by that?

7 A By being sexually intimate?

8 Q Yes.

9 A I mean fondling, touching, kissing with tongue,
10 caressing.

11 Q Fondling which parts of her body? I'm sorry it's
12 specific, it's just so the jury can understand.

13 A Private parts; breasts, you know, maybe groping and
14 caressing her vagina.

15 Q What happened during the actual photo shoot?

16 A Mr. Baslan had an idea for a shoot, and in this shoot
17 he suggested and dressed us in cutoff beaters, which is an
18 -- it's an undergarment, tank top, but now, it's cut shorter
19 and it's white. And then, also, little white underwear,
20 they were not thongs, but they were a little bit sheer. And
21 at this point we were instructed to go into the bathroom,
22 which is also on the far end opposite the door that you walk
23 in to enter, and the bathroom is also facing -- you're in
24 the back room with the door opened, standing there you could
25 see the backdrop where the couch is. So he dumped water on

CORTNEY - DIRECT/MS. DEMAS

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1 us which made our garments see-through, completely, and 02:01
2 directed us in which ways to pose. 02:02

3 Q How did he direct you to pose? 02:02

4 A Sexually explicit content. 02:02

5 Q Explain for the jury what you mean by that. 02:02

6 A Okay. One pose that stuck in my head specifically is 02:02
7 one where Andrea was sitting propped up on the counter, we 02:02
8 were both wet, mind you, and barely anything, and her legs 02:02
9 are opened, I'm on my knees, and my face is between her legs 02:02
10 implying oral sex. 02:02

11 Q But you were both fully clothed? 02:02

12 A Well, underwear. We had underwear on, yes. 02:02

13 Q Did the defendant take photographs while you were doing 02:02
14 those poses? 02:02

15 A Yes. 02:02

16 Q Had you done any modeling shoots or anything like that 02:02
17 before this? 02:02

18 A No, this was my first. 02:02

19 Q Did you know what to expect? 02:02

20 A Not at all. I was just a young woman with a dream. 02:02

21 Q Any other poses that you did with your friend Andrea, 02:03
22 did you come up with those ideas on your own? 02:03

23 A I'm sure we were, you know, playing a little bit, but 02:03
24 playing -- I'm sorry, I should probably make that a little 02:03
25 more clear, I apologize. You know, we would chitchat a 02:03

CORTNEY - DIRECT/MS. DEMAS

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1 little bit in between, but no, as far as poses, we were
2 instructed on how to pose by Mr. Baslan.

3 Q Did you ever see photos from this particular shoot?

4 A Not all of them, but I did see some.

5 Q When did you see them for the first time?

6 A For the first time, it was actually after the events
7 that I just discussed in the studio, that first shoot,
8 before we left. He pulled them up on his computer, one of
9 many, and showed us a few pictures, just raw ones from the
10 camera, and also photoshopped one at that time in front of
11 us, too.

12 Q Can you explain for the jury how the defendant
13 photoshopped those pictures or the one you saw?

14 A Yes, of course. I -- it came off after it was
15 photoshopped, it was a head shot of me. Now, my head is
16 wet, and it's also from the same shoot where they were
17 wearing the cutoff see-through tank and the little undies
18 and -- I'm sorry, can you -- I'm sorry, can you?

19 Q Sure. Can you explain for the jury what the defendant
20 did to photoshop the picture that you're talking about?

21 A Yes. Yes. Sorry. Okay. Yes. He -- okay. In the
22 picture it was me, okay, and, you know, my hair is wet, and
23 Andrea was actually biting my neck, her lips were right
24 here. Now, to show the pictures -- obviously, he didn't
25 want her parents to see or mine, because -- for obvious

CORTNEY - DIRECT/MS. DEMAS

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1 reasons, obviously, he must have known it was inappropriate,
2 and I was afraid to, but he photoshopped her mouth right
3 out, so it looks like it's just a picture of me.

02:05

02:05

02:05

4 Q Is there anything about that particular photograph that
5 you also remember?

02:05

02:05

6 A Yes.

02:05

7 Q What?

02:05

8 A Ms. Baslan is in my eyes.

02:05

9 Q Can you please explain that for the jury.

02:05

10 A If you look into my eyes in the picture, you can see
11 Ms. Baslan's silhouette and tripod right in front of me.

02:05

02:05

12 Q On the day of this photo shoot, did you do anything
13 else with the defendant that you remember? What happened
14 afterwards?

02:05

02:05

02:05

15 A He took me to get my first falafel.

02:05

16 Q What's a falafel?

02:05

17 A It's chickpeas ground up in a wrap with other yummy
18 stuff. I'm sorry, I don't know what makes one, but it's
19 just delicious.

02:05

02:05

02:06

20 Q Now, and how did you get home that day?

02:06

21 A Mr. Baslan dropped Andrea and I back off at her house,
22 and my mother picked me up from her house.

02:06

02:06

23 Q Were there times when you were 15 when you spent the
24 night at Andrea's house?

02:06

02:06

25 A Yes.

02:06

CORTNEY - DIRECT/MS. DEMAS

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1 Q Did there ever come a time when the defendant came over
2 to Andrea's house when you were guys were having a
3 sleepover?

02:06

02:06

02:06

4 A Yes.

02:06

5 Q When approximately did that happen?

02:06

6 A That happened not far after, I would like to say maybe
7 a month or two out of -- out of the first initial shoot.

02:06

02:06

8 Andrea and I were having a sleepover, being kids,
9 you know what I mean, giggling, laying in her bed, just
10 goofing off, we didn't have the lights off, we were
11 laughing. You know how you laugh with somebody, it feels --
12 that's what we were doing.

02:06

02:06

02:06

02:06

02:07

13 And her parents were both downstairs, because her
14 bedroom is upstairs in her house, okay, upstairs on the far
15 side. Her parents were downstairs, and Mr. Baslan came
16 over. I heard him greeting her parents downstairs, that's
17 how I knew he was there, from upstairs. And he came
18 upstairs and he knelt down on the bed in the dark with the
19 door open where we're still both laying and penetrated both
20 of us at the same time with his fingers. It lasted less
21 than a minute, and then he was gone.

02:07

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22 Q Did you -- and did the defendant say anything to you
23 while that was happening?

02:07

02:07

24 A Shhhh.

02:07

25 Q Did you and Andrea discuss what had happened when he

02:07

CORTNEY - DIRECT/MS. DEMAS

428

1 left?

02:07

2 A You know, she looked to me like she felt like it was
3 normal almost, but I was in shock.

02:07

02:07

4 Something else that might strike some relevance is

02:08

5 I was in love with Andrea at the time, she was my first girl

02:08

6 crush, like, she was the coolest person I had ever met. I

02:08

7 wanted to almost go along with anything she would do,

02:08

8 because I wanted to impress her, and it's not something that

02:08

9 we discussed after that happened. I think we were both just

02:08

10 confused and more afraid of getting in trouble ourselves

02:08

11 somehow.

02:08

12 Q How old were you at the time of this sleepover?

02:08

13 A I was 15.

02:08

14 Q How old was Andrea, do you remember?

02:08

15 A She may have just turned 15.

02:08

16 Q Now, did you continue to see Mr. Baslan, the defendant,
17 when you were 15 years old?

02:08

02:08

18 A Yes, I did.

02:08

19 Q And how come?

02:08

20 A He made promises to me. I really wanted nothing more

02:08

21 than to make my family proud and fulfill my passion and my

02:09

22 dream of being a model, you know, and he did take these

02:09

23 beautiful pictures, and he did introduce me to other people

02:09

24 and -- I mean, I didn't get any lucrative work from

02:09

25 Mr. Baslan, but, you know, at the time, in my age and -- I

02:09

CORTNEY - DIRECT/MS. DEMAS

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1 mean, I would know better now, but then I didn't, and it was
2 promises. And I really just wanted to just -- I felt like
3 if I just grinned and beared it, then, you know, I could
4 finally make it and make my dream come true and...

5 Q Could you describe -- did you do more photo shoots with
6 the defendant during this time?

7 A Yes, I did.

8 Q Can you just describe generally the types of photo
9 shoots you did with him?

10 A Yes, I can. Some of the types of photo shoots -- I
11 mean, we did all sorts of different kinds of photo shoots.
12 A lot of them were, you know, you know, some implied nudes,
13 I was topless, covering my nipples, but obviously, if -- I'm
14 sorry, may I just?

15 Q Sure. Take a drink of water.

16 A Okay. Okay. Can you just?

17 Q Sure. Can you describe for the jury generally the type
18 of photo shoots you did with the defendant?

19 A Yes, I can. The types of photo shoots that I did with
20 the defendant were what he would consider high fashion.
21 Now, high fashion is usually -- I mean, it could be
22 anything, really, these days, but, you know, wearing things,
23 but usually, like, wearing clothes, right, and the lighting,
24 it's all about, like, how the lighting is, and the wardrobe
25 and whatnot, that's kind of what deciphers, you know,

CORTNEY - DIRECT/MS. DEMAS

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1 photography.

02:10

2 So we did a lot of implied nudes, a lot of, you
3 know, stuff just in my undies and bras, and he told me they
4 were artistic.

02:10

02:11

02:11

5 At one point we did a photo shoot where I was
6 wearing a black -- I was topless. I had little itty bitty
7 bottoms on, like thongs, to make it look like I had nothing
8 on, and he wanted to call this one sadness. That's what he
9 actually named that series. He told me that he wanted to
10 get it into an art gallery, which is obviously something
11 that if I heard at my age would excite me to have my photos
12 in a gallery somewhere in New York, you know, that's what I
13 thought. That's what I thought.

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14 Q Did you ever go to a bar with the defendant?

02:11

15 A Yes, I did.

02:11

16 Q Did you go to a bar called Faherty's in downtown
17 Buffalo?

02:11

02:11

18 A Yes, on Elmwood.

02:11

19 Q Do you remember how old you were at that time?

02:11

20 A Yes, I would be getting ready to turn 16 in a couple of
21 months, so it was like the fall.

02:11

02:12

22 Q Now, before you went to this bar with the defendant,
23 had you had any conversations with him about your childhood?

02:12

02:12

24 A Yes.

02:12

25 Q What did you tell the defendant about your childhood

02:12

CORTNEY - DIRECT/MS. DEMAS

431

1 and explain why you told him this?

02:12

2 A I feel I should explain why first, so you understand
3 why I felt I could open up.

02:12

02:12

4 Mr. Baslan had told my mom, who at the time was a
5 single mother struggling, you know, and I was a young,
6 growing up, blossoming young woman, you know, a young lady,
7 I was a kid, but complicated, you know, like all girls go
8 through that phase, I'm sure. And Mr. Baslan told my mom
9 that he and his father both had experience in child
10 psychiatry.

02:12

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02:12

11 So my mom thought it would be suitable and safe to
12 talk to him about things, that I wouldn't talk to her about,
13 so I opened up about some of my darkest, hardest things to
14 talk about and -- would you like me to share?

02:13

02:13

02:13

02:13

15 Q Sure, please.

02:13

16 A When I was seven years old up until age ten I was
17 molested by my aunt's husband, which would have been my
18 uncle, and it went on for years. I talked to him about
19 that.

02:13

02:13

02:13

02:13

20 Q You told the defendant about that?

02:13

21 A Yeah.

02:13

22 Q Did he give you any advice?

02:13

23 A He said that some people are just sick. It didn't make
24 me feel better to hear that, but, I mean, that's the answer
25 I got.

02:13

02:13

02:13

CORTNEY - DIRECT/MS. DEMAS

432

1 Q And when had you told the defendant about your past
2 abuse in relation to the time that you went to this bar
3 Faherty's?

02:13
02:14
02:14

4 A Beforehand. Not the same exact night, but definitely
5 within a couple of days before we had a sit down talk.

02:14
02:14

6 Q And what was the purpose of going to this bar with the
7 defendant?

02:14
02:14

8 A He knew I was stressed out, you know, under a lot of
9 pressure. I had also had to dump my boyfriend, he told me
10 to, and I was a little upset about that, too. He felt it
11 would be a way for me to unwind, I guess, you know, and I
12 had never been to a bar before, you know, maybe sipped
13 champagne a couple of times in my life when I was younger,
14 New Year's with my mom or something, but I wasn't a drinker,
15 I wasn't into any of that, you know.

02:14
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02:14

16 Q What happened when you got to Faherty's, can you walk
17 the jury through it step-by-step?

02:14
02:14

18 A Sure, yes. Well, Faherty's is a bar, bar/restaurant,
19 but mainly a bar, people mainly just go there to drink, and
20 it's on Elmwood, which is a busy, popular -- it's like a
21 little village town in Buffalo, New York. And so we're
22 walking up to the door -- now, mind you, I'm clearly not of
23 age, I'm not even 18, I'm not even 17, you know what I mean,
24 I'm 15 going on 16. They're going to card. Bebars --
25 sorry, Mr. Baslan instructed me to go to the lavatory while

02:14
02:15
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02:15
02:15

CORTNEY - DIRECT/MS. DEMAS

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1 he ordered the drinks so there wouldn't be any problems, and
2 I walked back to the bathroom, he was at the last booth
3 closest to the door that I walked in at, and there were two
4 fuzzy navels on the table; one in front of him and one in
5 front of me.

6 Q What's a fuzzy navel?

7 A A fuzzy navel is gross, it's peach schnapps, maybe
8 orange juice --

9 THE COURT: So, it's a drink?

10 THE WITNESS: Yes. Sorry. Okay, yes. I was --
11 okay. Yeah, it's an alcoholic beverage.

12 Q Did you drink either of those drinks?

13 A I drank the one in front of me, yes.

14 Q Do you remember drinking a second one?

15 A No, I do not.

16 Q What's the next thing you remember about that night?

17 A Being back at his studio, coming to with Mr. Baslan on
18 top of me on the futon closest to the door when you first
19 walk in to the studio.

20 Q On top of you doing what?

21 A Penetrating me with his penis.

22 Q How old was the defendant at that time?

23 A The defendant instructed me he was 28 years old.

24 Q Had you ever had sex with a man before at that time?

25 A No, I had not, and it hurt a lot.

CORTNEY - DIRECT/MS. DEMAS

434

1 Q What happened when you came to?

02:17

2 A He stopped.

02:17

3 Q Did you stay awake?

02:17

4 A I drifted back, too. I think I was in shock and
5 ashamed, and I just didn't even want to exist at that
6 moment, honestly. I wish I could have just had it be a
7 nightmare. I'm sorry. Can I please have a Kleenex?

02:17

02:17

02:17

02:17

8 THE COURT: Sure.

02:17

9 THE WITNESS: Thank you. All right. I'm okay
10 now. Sorry about that.

02:17

11 Q Do you remember having -- where were you when you woke
12 up?

02:17

02:17

13 A I was still in Mr. Baslan's studio.

02:17

14 Q Do you have any idea how you got from Faherty's to the
15 studio?

02:17

02:17

16 A Not at all.

02:17

17 Q How did you get home the next morning?

02:17

18 A Mr. Baslan.

02:17

19 Q Did he drive you?

02:17

20 A Yes, but not the next morning, it wasn't right after he
21 took me somewhere.

02:17

02:18

22 Q Where did he take you?

02:18

23 A He took me to Quest Diagnostics.

02:18

24 Q For what?

02:18

25 A Well, when he was doing it -- this is embarrassing, but

02:18

CORTNEY - DIRECT/MS. DEMAS

435

1 I know it's relevant, so I'm going to have to tell you. 02:18

2 While he was doing that, he said that his -- it 02:18
3 hurt me a lot, and I was in pain. Like after, when I came 02:18
4 to, I was like, oh, my, God, ough, it's burning, it's 02:18
5 burning, okay. And he said that his penis was burning, so 02:18
6 he wanted to make sure I didn't have any STD's. 02:18

7 Q So he took you where? 02:18

8 A To Quest Diagnostics, which is a testing center. 02:18

9 Q Did you get tested? 02:18

10 A Yes, I did. 02:18

11 Q Now, did you continue to see the defendant -- 02:18

12 A I didn't have STD's, I had a yeast infection. 02:18

13 Q Did you continue to see the defendant after the night 02:19
14 at Faherty's? 02:19

15 A I did. I did. 02:19

16 Q Did there ever come a time when you were at the 02:19
17 defendant's studio in Buffalo and there was model chocolate 02:19
18 there? 02:19

19 A Yeah. He used to photograph chocolate. He used to 02:19
20 photograph chocolate. He did a lot of photography for 02:19
21 different things to make money, I'm guessing. But, yes, 02:19
22 there was a lot of chocolate. 02:19

23 There was this night, one of my long-time, best 02:19
24 friends ever since, like, elementary -- no, not even since 02:19
25 elementary school, her name is Rachel, we were BFF's 02:19

CORTNEY - DIRECT/MS. DEMAS

436

1 forever, like, you don't understand, all right, so I wanted 02:19
2 to hang out with her. And she also, you know, young girls, 02:20
3 a lot of them want to be a model and get to see what that 02:20
4 life feels like being a grown up when you're not, you know 02:20
5 what I mean. And Rachel came along, we picked Rachel up, 02:20
6 Bebars and I. He picked me up from my house in Lancaster, 02:20
7 New York, which is a city outside of Buffalo, okay, a 02:20
8 suburb, rather. And then we picked Rachel up. And on the 02:20
9 way to the studio, Mr. Baslan told us to wait in the car. 02:20
10 He pulled into a driveway of a house, like, I wish I could 02:20
11 remember where, but I don't, I'm so sorry, and he came out 02:20
12 with a bag of marijuana, like, this big, (indicating), a 02:20
13 lot. It looked like a lot. 02:20

14 And of course I had tried smoking, like, once or 02:20
15 twice as a kid. I mean, you know what I mean, I think 02:20
16 everyone might try once in their life, but it wasn't 02:21
17 necessarily quite for me. But, yes, Rachel was there. 02:21
18 Rachel really wasn't into smoking, and I think he asked if 02:21
19 she was into any drugs or anything. Yeah, she smokes pot, 02:21
20 and that's all that she did, so he bought the pot I'm 02:21
21 thinking to impress her, but then again, that's what I'm 02:21
22 thinking, you know. 02:21

23 And we were smoking. And he also had a bottle, 02:21
24 and he was making more -- they were either fuzzy navels or 02:21
25 sex on the beach, which are both alcoholic beverages, we 02:21

CORTNEY - DIRECT/MS. DEMAS

437

1 were drinking. Now, the combination for somebody that 02:21
2 doesn't drink of -- especially being that young and smoked 02:21
3 marijuana that way, I ended up getting the spins and in the 02:21
4 bathroom throwing up, which is at the far end of where the 02:21
5 chocolate is and everything else on the other side of the 02:21
6 studio. 02:22

7 I come out of the bathroom after, you know, blah, 02:22
8 and I notice -- I see Bebars walk out, he had another 02:22
9 backroom where there was a keyboard, and I think maybe a 02:22
10 couple of cubicles, it was like an extra little office space 02:22
11 inside the studio. Rachel walked out after almost, like, 02:22
12 with her head down, about shame almost, topless, too, but 02:22
13 she didn't say anything to me. 02:22

14 So while she was topless, Bebars was taking 02:22
15 pictures of her with candlelight, there were candles lit, 02:22
16 pictures. I can see two in my head that will never leave of 02:22
17 her. 02:22

18 After that night, Rachel never talked to me again, 02:22
19 and I just wish I knew what happened that I didn't see. I'm 02:22
20 sorry. 02:23

21 Q Did you have a friend named Danielle? 02:23

22 A She's my best friend. 02:23

23 Q Did you ever go to the defendant's studio with your 02:23
24 friend Danielle? 02:23

25 A Yes. 02:23

CORTNEY - DIRECT/MS. DEMAS

438

1 Q What happened now -- I'm sorry, how old were you at the
2 time?

3 A 16.

4 Q How old was Danielle?

5 A 15. She's a bit younger than I am.

6 Q Sorry. Can you tell the jury what happened that night?

7 A Yes. My -- it's important that I share a little bit of
8 the history of Danielle for you to understand.

9 My BFF at the time, Danielle, beautiful, beautiful
10 girl, she had a little, you know, she was a little bit
11 overweight and a little bit uncomfortable with herself,
12 because I always thought she was absolutely beautiful, but
13 she was insecure. I said you can model, you are gorgeous,
14 you know what I mean. I wanted to help her feel pretty, you
15 know, because she is.

16 So Mr. Baslan invited us to the studio, and he
17 picked us up. I was already at Danielle's when he picked me
18 up and took us both to the studio.

19 Now, there is a lot of alcohol. There weren't any
20 drugs going on, at least that I know of, but there was
21 alcohol. We were drinking. Once again, I ended up throwing
22 up. I mean, you would think I would learn by now, I'm not a
23 drinker; by then rather. And as I got out of the bathroom,
24 it's that gosh darn back room -- I'm sorry. I need a
25 second. Just one second. This is just -- this is really

CORTNEY - DIRECT/MS. DEMAS

439

1 difficult.

02:24

2 He walked out causally and sat at his desk,
3 Danielle walked out, pulled me to the side and said, he
4 tried to stick it in her ass. Those are her words. I don't
5 like to speak that way, but I will verify what that meant
6 for you; his penis in her bottom hole. And she said it hurt
7 really, really bad and she stopped him.

02:25

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02:25

8 Q Do you know a girl name Christie whose last name starts
9 with a "C"?

02:25

02:25

10 A Yes, I do.

02:25

11 Q Did you ever hang out with Christie last initial C with
12 the defendant?

02:25

02:25

13 A Yes, I have.

02:25

14 Q And could you -- did there ever come a time around your
15 17th birthday that you were hanging out with Christy C and
16 the defendant?

02:25

02:25

02:25

17 A Yes. I had -- Bebars offered my mom, who was
18 struggling financially at the time. My Sweet 16 that I had
19 didn't work out very well, and so she wanted to make up for
20 my 17th birthday. So Bebars offered to host it at his
21 studio, so I couldn't tell my mom, it was too late, everyone
22 was already coming, you know. I was hoping if my mom is
23 there and there is lots of people there, that he wouldn't
24 pull anything. And so there is a group of girls, probably
25 about ten to 12 of us in the studio just getting dolled up,

02:25

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02:26

CORTNEY - DIRECT/MS. DEMAS

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1 goofing around, getting ready to go out. Chrstitie C wasn't 02:26
2 there yet, she wasn't at my party in the studio, we left the 02:26
3 studio to go to a club called Marchella's, it's a gay night 02:26
4 club, it's 18 and up, but I had my 17th birthday, but Bebars 02:26
5 got me in anyways -- Mr. Baslan got me in any way. 02:26

6 So we were inside just dancing and having fun, you 02:26
7 know. I'm getting pooped out at this point, so I walk out, 02:26
8 Mr. Baslan follows me out, you know, because my mom had 02:27
9 already went home by this point, she's like, keep an eye on 02:27
10 my daughter, to him -- if she only knew. I'm sorry. 02:27

11 We ran into Christie C, and we had found cocaine. 02:27
12 Mr. Baslan was holding cocaine a bag. We went to Chocolate 02:27
13 Bar with Christie, and then from Chocolate Bar, which is a 02:27
14 bar where most of the liquores are made out of the real 02:27
15 chocolate. It sounds good, right? So after Chocolate Bar 02:27
16 we went to Mr. Baslan's apartment, which was no more than -- 02:27
17 because I was still quite coherent, no more than maybe eight 02:27
18 to ten minutes to get there from -- so I know it had to had 02:27
19 to have been in the Buffalo area, the best that I can 02:28
20 remember at least. 02:28

21 Q What happened when you got there? 02:28

22 A We -- I tried cocaine for the first time. Christie had 02:28
23 already been experienced with it. Mr. Baslan did a line. I 02:28
24 only saw him do one. But Christie was doing lines and I did 02:28
25 a line. And he bought -- he brought a bottle out. We were 02:28

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1 drinking out of the bottle, and it was liquor, I don't 02:28
2 remember what one it was, I'm sorry, I wish I did, but I 02:28
3 just don't. It was booze, so liquor though definitely. We 02:28
4 were getting tipsy and sloshy at this point. 02:28

5 I had also had a crush on Christie since high 02:28
6 school. Is this making any sense? Are you guys getting 02:28
7 confused? 02:28

8 Q Keep going. 02:28

9 A So I wanted to kiss her. And, like, when you're a 02:28
10 teenager and you like a boy, it was just like that for me, 02:29
11 but I liked a girl. And we were kissing and, you know, 02:29
12 hooking up, you know, we weren't engaged in full sex. 02:29

13 Q You and Christie? 02:29

14 A Christie and I, yes, and that's when Mr. Baslan stepped 02:29
15 in with his camera, which he did have on a tripod. 02:29

16 Q What did he do with the camera? 02:29

17 A He videotaped what was going on between Christie and I. 02:29
18 And then also videotaped her performing fellatio. 02:29

19 Q Do you know how old Christie was at that time? 02:29

20 A She maybe was almost 18. 02:29

21 Q 18? 02:29

22 A But I'm not 100 percent sure. She's little bit older 02:29
23 than I am. 02:29

24 Q Did the defendant ever take you to a hotel called 02:29
25 either the Pink Flamingo or Pink Fountain? 02:30

CORTNEY - DIRECT/MS. DEMAS

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1 A One time.

02:30

2 Q Do you remember when that was? Are we still in '05 or
3 in '06?

02:30

02:30

4 A We're in '06.

02:30

5 Q And for the majority of '06, how old are you?

02:30

6 A 16.

02:30

7 Q I'm sorry?

02:30

8 A 16.

02:30

9 Q I couldn't hear you.

02:30

10 A 16. Sorry. I should sit a little bit closer.

02:30

11 Q And what happened the night of the Pink Flamingo Hotel
12 or Pink Fountain, whichever one it is?

02:30

02:30

13 A It was late and Bebars had taken me out again, to
14 Nectar this time. Nectar is a very nice lounge in Buffalo.
15 So before that -- before he took me to the Pink Flamingo, on
16 the way home, that's when I lived in Lancaster, so now Pink
17 Flamingo is literally, like, ten minutes from home from
18 where I was living with my mom.

02:30

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02:31

19 So we went to Nectar, we had shots, and all this
20 fancy stuff. I had never been to a fancy, lavish place
21 before and I felt so special, you know, and -- like I got my
22 buzz on, I'm not going to lie, I was, I was buzzed. And we
23 then proceeded -- I got into his vehicle. At this point I'm
24 sort of like head against the window on the way, out of it
25 feeling now at this point, the alcohol and being tired on

02:31

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CORTNEY - DIRECT/MS. DEMAS

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1 top of it. And Mr. Baslan pulled us into a motel and wanted 02:31
2 me to -- he told me he wanted me to nap it off for a little, 02:31
3 just rest for a minute before he takes me home, so my mom 02:31
4 doesn't see me this way, because he got me all drunk, you 02:32
5 know, and he didn't want to bring me back to my mom like 02:32
6 that. So he -- the intent -- or at least what he told me 02:32
7 what the intentions were of going there was somewhere for me 02:32
8 almost home, but to lay down and just, like, sober up. But 02:32
9 that's not what happened. 02:32

10 Q What happened? 02:32

11 A Mr. Baslan forced himself on me. 02:32

12 Q In what way? 02:32

13 A Sexually. He -- it didn't last long. Once again, it 02:32
14 was always this -- I just never understood. It was almost 02:32
15 like it was an itch to scratch. And then that -- it's just 02:32
16 like. Sorry, it was just. 02:32

17 THE COURT: May I see counsel at sidebar, please. 02:32

18 (Continued on the next page for sidebar 02:32
19 conference.)

20

21

22

23

24

25

SIDEBAR

444

1 (Sidebar conference begins.)

02:33

2 THE COURT: This strikes me going beyond the scope
3 of the proffer and apart from that, I've heard enough.

02:33

4 MS. DEMAS: Okay.

02:33

5 THE COURT: I don't know if she's getting her buzz
6 on or hurting herself, but I've heard enough.

02:33

7 MS. DEMAS: Okay.

02:33

8 (End of sidebar conference.)

02:33

9 (Continued on the next page.)

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CORTNEY - DIRECT/MS. DEMAS

445

1 DIRECT EXAMINATION (Continued) BY MS. DEMAS:

02:33

2 Q I'm showing you photographs that have been marked for
3 identification as Government Exhibits 52-A through 52-E.

02:33

02:33

4 Just take a look at these and tell me if you recognize them.

02:34

5 A Oh, yes. In fact, these were the ones that -- these
6 were the ones in a portfolio of mine. These were the same
7 pictures.

02:34

02:34

02:34

8 Q Do you recognize the person in all these photographs?

02:34

9 A This is me in all of them. This is the one I was
10 talking about, the sadness.

02:34

02:34

11 Q Don't --

02:34

12 A Okay. Sorry. But, yes, these are all me.

02:34

13 Q Who took all of these photographs of you?

02:34

14 A Mr. Baslan, as you can see his name at the bottom.

02:34

15 MS. DEMAS: Okay. The government moves 52-A
16 through 52-E into evidence.

02:34

02:34

17 THE COURT: May see them, please?

02:34

18 (Handed.)

02:34

19 THE COURT: Any objection?

02:34

20 MR. SAVITT: I don't believe so. If I could just
21 take a look at them myself.

02:35

02:35

22 THE COURT: Show them to Mr. Savitt, if you would.

02:35

23 (Handed.)

02:35

24 MR. SAVITT: No objection.

02:35

25 THE COURT: 52-A -- the markings again?

02:35

CORTNEY - DIRECT/MS. DEMAS

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1 MS. DEMAS: 52-A through 52 "E" as in elephant. 02:35

2 THE COURT: A through E now in evidence. 02:35

3 (Government Exhibits 52-A to E were admitted into 02:35
4 evidence.) 02:35

5 Q For the record is this Government Exhibit -- 02:35

6 THE COURT: I can't hear you.

7 Q I'm sorry. For the record, this is Government 02:35
8 Exhibit 52 "D" as in dog. 02:35

9 Cortney, can you read at the bottom what it says 02:35
10 on the far, right corner? 02:36

11 A Bebars Baslan Baslan.com copyright 2006. 02:36

12 Q Is this you in the photograph? 02:36

13 A Yes, it is. 02:36

14 Q 52-E, is there also a copyright indication on this one? 02:36

15 A Yes. 02:36

16 Q What is it? 02:36

17 A Bebars Baslan. Wait. I can't -- it looks like there 02:36
18 is one more thing in the middle. Bebars Baslan, Bebars 02:36
19 Baslan.com copyright, it's the same thing on every one. 02:36

20 Q 2006? 02:36

21 A Yes, 2006. 02:36

22 Q Showing you 52-A, is this also you in the two 02:37
23 photographs? 02:37

24 A Yes, it is. 02:37

25 Q 52-B, is this also you? 02:37

CORTNEY - DIRECT/MS. DEMAS

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1 A Yes, it is.

02:37

2 Q And 52-C, is this also you?

02:37

3 A Yes, it is.

02:37

4 Q And how old were you at the time all the photographs
5 were taken?

02:37

02:37

6 A 15. That one was taken when I was 15.

02:37

7 Q Now, did there ever come a time where the defendant
8 showed up at a place called SPoT Coffee?

02:37

02:37

9 A Yes.

02:37

10 Q How old were you at that time approximately?

02:37

11 A I just turned 18.

02:38

12 Q And at that point in time were you still in contact
13 with the defendant?

02:38

02:38

14 A No, I had lost contact with him.

02:38

15 Q And what happened at SPoT Coffee?

02:38

16 A I was dating a woman who worked there, and I was in
17 SPoT Coffee. It's a coffee shop in Buffalo, in Elmwood,
18 it's a cute little spot that everyone knows. I was in SPoT
19 Coffee by the expediting station, which is like the area
20 where you get the beverages from, it's like, you know,
21 Starbucks, the same thing. So I'm standing there. So I do
22 have -- I had a view of the entrance door from where I'm
23 standing.

02:38

02:38

02:38

02:38

02:38

02:38

02:38

02:38

24 Mr. Baslan comes in looking extremely distressed,
25 stiff body language, he looked panicked in a way I've never

02:38

02:38

CORTNEY - DIRECT/MS. DEMAS

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1 seen him before.

02:38

2 Now, he said to me quietly, he got closer and bent
3 down almost a bit closer to my height and said, Andrea's
4 parents found out. You cannot say anything. If anybody
5 asks you anything, you cannot say that I touched her or you
6 or anything.

02:39

02:39

02:39

02:39

02:39

7 And before anything else, he was fumbling through
8 some paperwork. Before anything that he could pull out and
9 ask me to sign something, I didn't sign anything. My
10 girlfriend at the time knew what was going on with him at
11 the time and --

02:39

02:39

02:39

02:39

02:39

12 Q Just explain what your girlfriend did. Sorry.

02:39

13 A She came out and she literally almost pushed him right
14 out of the shop, get out of my store now, get out, get away
15 from her.

02:39

02:39

02:39

16 Q Okay. Cortney, I'm going to show you three documents;
17 Government Exhibit 37-AA, 37-BB and 37-Z. I just want you
18 read these to yourself. Don't say what they contain.

02:39

02:39

02:40

19 A Okay.

02:40

20 Q So starting with 37-Z.

02:40

21 THE COURT: "Z" as in zebra?

02:40

22 MS. DEMAS: "Z" as in zebra.

02:40

23 Q Now, do you recognize the first name on the first line
24 of that?

02:40

02:40

25 A Yes.

02:40

CORTNEY - DIRECT/MS. DEMAS

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1	Q	Who is it?	02:40
2	A	Me.	02:40
3		MR. SAVITT: You're -- oh, I'm sorry. Go ahead.	02:40
4	Q	Have you ever seen this document before?	02:40
5	A	No.	02:40
6	Q	Okay.	02:40
7	A	Ever.	02:40
8	Q	37-AA, just tell me if you recognize the name on the	02:40
9		first line of that document.	02:40
10	A	I recognize.	02:40
11	Q	Don't say who it is.	02:40
12	A	I won't. I recognize the name. I've never seen of any	02:40
13		these before though.	02:40
14	Q	Okay. 37-BB. Tell me if you recognize the first name	02:40
15		on there, on the first line?	02:40
16	A	Yes, I do. Wow. Sorry.	02:40
17	Q	When's the last time you ever talked to the defendant?	02:41
18	A	It would have been the time at SPoT.	02:41
19	Q	Now, since the time that all this happened, have there	02:41
20		been periods in your life where you used drugs?	02:41
21	A	Since that happened?	02:41
22	Q	Yes.	02:41
23	A	Definitely not prior, I was a good kid.	02:41
24	Q	After?	02:41
25	A	I dabble after, yes.	02:41

CORTNEY - CROSS/MR. SAVITT

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1 Q Did you have to go to -- was there ever a time that you
2 went to rehab?

3 A Yes.

4 Q Was there a time that you got addicted to heroin?

5 A Yes.

6 Q Was there a time when you were using cocaine regularly
7 over the course of about a year?

8 A Yes.

9 Q Have you been getting mental health treatment?

10 A Yes.

11 Q Are you currently on any kind of medication?

12 A Yes.

13 Q Which medications?

14 A Cymbalta.

15 Q What's that for?

16 A Anxiety, panic.

17 Q And do you still smoke marijuana occasionally?

18 A Once in awhile.

19 MS. DEMAS: Okay. I have no further questions.

20 THE COURT: All right. Thank you. Mr. Savitt?

21 MR. SAVITT: Yes, sir.

22 CROSS-EXAMINATION

23 BY MR. SAVITT:

24 Q Good afternoon, Cortney.

25 A Good afternoon.

CORTNEY - CROSS/MR. SAVITT

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1 Q My name is Ephraim Savitt, I represent Mr. Baslan. And 02:42
2 I have to ask you a couple of questions. 02:42

3 A Okay. 02:42

4 Q All right. 02:42

5 Before you testified here today, had you met with 02:42
6 the prosecutor? 02:43

7 A Excuse me, can you? 02:43

8 Q Had you met with the prosecutor before testifying here 02:43
9 today? 02:43

10 A The prosecutor meaning who? 02:43

11 Q The person who just asked you the questions. 02:43

12 A Yes. 02:43

13 Q How many times did you meet with her? 02:43

14 A Like, maybe three, three times. 02:43

15 Q All right. When you say maybe three; more or less 02:43
16 three times, right? 02:43

17 A Right. Maybe. 02:43

18 Q I'm sorry. Go ahead. 02:43

19 A Maybe, perhaps. It might be, you know, give or take. 02:43
20 It's been -- this has been really stressful for me and I've 02:43
21 been quite traumatized for doing with all of this, and I 02:43
22 apologize if my timeframe isn't suitable. 02:43

23 THE COURT: Do the best you can. Next question. 02:43

24 Q When was the last time you met with the prosecutor 02:43
25 before testifying? 02:44

CORTNEY - CROSS/MR. SAVITT

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1 A Like met with, met with? Over a week ago.

02:44

2 Q Met with in order to get an idea of what the subject
3 matter was that you were going to be asked about?

02:44

02:44

4 A I'm just going to tell the truth. I didn't --

02:44

5 actually, I wasn't told at all what I would be questioned

02:44

6 from you, so we didn't go over that part last.

02:44

7 Q Well, were you told what you were going to be

02:44

8 questioned by the prosecutor about? And forgive my frog in

02:44

9 the throat, because --

02:44

10 A Actually, I need a minute. I need -- Tiana, I? Just

02:44

11 to start -- just start asking me or -- I'm just going to

02:45

12 tell the truth, it's easy. Go ahead.

02:45

13 Q All right. Did the prosecutor give you an idea of what

02:45

14 she was going to ask you? That's the question.

02:45

15 A No, not really.

02:45

16 Q So you had no idea what you were going to testify

02:45

17 about?

02:45

18 A No. Of course I knew what I was going to testify

02:45

19 about, but, yes, we went over things, of course we did.

02:45

20 Q And you did that on three different occasions or more?

02:45

21 A Not full, not from beginning to end of everything that

02:45

22 I've been through with Mr. Baslan, no. My wellbeing has

02:45

23 been something of a concern.

02:45

24 THE COURT: Now, just wait a second. This is how

02:45

25 we're going to do this: Mr. Savitt is going to ask you a

02:45

CORTNEY - CROSS/MR. SAVITT

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1 question, take a breath, relax, just answer the question and
2 we'll move on to the next question.

3 Go ahead, Mr. Savitt.

4 BY MR. SAVITT:

5 Q Did you go through the entire series of episodes about
6 which you testified here today with the prosecutor before
7 you testified?

8 A Yes, I did, because unfortunately, it never leaves my
9 head.

10 Q And so you're haunted by all of this?

11 A Yes, I am.

12 Q Now, let's go back to the time when you first entered
13 this modeling contest?

14 A Uh-huh.

15 Q And you were 15 years old at the time?

16 A Yes.

17 Q And the name of the contest?

18 A Hunter's Hope.

19 Q And do you know who sponsored Hunter's Hope?

20 A Jim Kelly of the Buffalo Bills.

21 Q Jim Kelly of the Buffalo Bills. Now, the Buffalo Bills
22 is a professional football team, right?

23 A Yes.

24 Q And Jim Kelly, what was he with the Buffalo Bills at
25 the time, if you know?

CORTNEY - CROSS/MR. SAVITT

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1 A I'm not a sports fanatic. Jim Kelly, he owns the Ralph
2 Wilson Stadium and his son was sick, and his son's name is
3 Hunter, and therefore, he wanted a benefit to help treatment
4 for his son and any other child that might have the same
5 illness. And, no, I don't remember what illness he had.

6 Q And the prize for entering or winning that contest
7 would be a photo shoot with Mr. Baslan?

8 A Yes.

9 Q And did your mother enter you into the contest?

10 A Sort of. It wasn't -- my mom had to sign, obviously,
11 because I was underage to be involved in a contest. Just --
12 she signed for the Hunter's Hope pageant only. And besides
13 that, I found out about it through Andrea actually, because
14 she's the one who won, so she's the one that found out
15 first.

16 Q All right. So first, she found out about the contest,
17 Andrea did, she told you about it and then ultimately she
18 won. Is that how it went?

19 A Yes, that's how it went.

20 Q And of course you didn't go kicking and screaming into
21 the contest, you wanted to be a model, right?

22 A Yeah, right.

23 Q And that's pretty normal for a 15-year old girl as you
24 told us on direct examination, right?

25 A Yes, correct.

CORTNEY - CROSS/MR. SAVITT

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1 Q And after that point Andrea went, so she gets this 02:48
2 photo shoot opportunity with Mr. Baslan, am I correct? 02:48

3 A Correct. 02:48

4 Q You were a runner-up, you also got, like, a second 02:48
5 prize, you could be a part of the photo shoot? 02:48

6 A Yes. 02:48

7 Q And you came with two suitcases of clothing? 02:48

8 A Yes. It was my first shoot, I didn't know how much I 02:48
9 needed to bring. 02:48

10 Q I understand. Did you carry those suitcases along or 02:48
11 did your mother help you at the time? 02:48

12 A I believe Mr. Baslan came out when my mom pulled out in 02:48
13 front of the studio and carried them up the stairs. 02:48

14 Q What did your mom do after that? 02:49

15 A Went home. 02:49

16 Q And then you told us that you saw some inappropriate 02:49
17 conduct between Andrea and Mr. Baslan; is that right? 02:49

18 A That is correct. 02:49

19 Q Was there a photo shoot that day where you were 02:49
20 involved as the model? 02:49

21 A Yes. 02:49

22 Q And you told us about that with the skimpy underwear 02:49
23 and the wet clothing? 02:49

24 A He dumped water on us, yeah. 02:49

25 Q And he showed you the photo at some point? 02:49

CORTNEY - CROSS/MR. SAVITT

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1 A Just a couple.

02:49

2 Q And actually, when you came home, you told your mother
3 about all this, right?

02:49

02:49

4 A I told her -- well, obviously, I mean, I wasn't
5 supposed to tell her all of that, just that we had a photo
6 shoot.

02:49

02:49

02:49

7 Q You didn't tell her about the inappropriate sexual --

02:49

8 A Told my Bebars that my mom wanted to see a picture, so
9 he photoshopped that one, out of her lips, he printed that
10 one out and showed that to show. That way, she didn't -- I
11 didn't want to get in trouble either.

02:49

02:49

02:50

02:50

12 THE COURT: All right. Hold on a second. Let's
13 get back to the script. Next question.

02:50

02:50

14 Q So the answer is you didn't tell your mom?

02:50

15 A I did not tell my mother about the inappropriate
16 conduct that happened at the photo shoot, no.

02:50

02:50

17 Q Okay.

02:50

18 A I did not.

02:50

19 Q And you certainly didn't tell anybody else, right, of
20 authority?

02:50

02:50

21 A Certainly not.

02:50

22 Q And of course you must have been threatened not to tell
23 anybody, right?

02:50

02:50

24 A I wouldn't put words in my mouth.

02:50

25 Q Well, were you threatened by anybody not to tell?

02:50

CORTNEY - CROSS/MR. SAVITT

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1 A He told us we could all get into a lot of trouble.

02:50

2 Q I'm sorry?

02:50

3 A That we could get into trouble. And then it will ruin
4 my modeling career, I'll never get be a model if I tell, my
5 mom will pull me away from him, he's going to get in
6 trouble, and won't be able to help me with career anymore.

02:50

02:50

7 Q And your life would be over as far as a prospective
8 model, right, and you didn't want that to happen?

02:50

02:51

02:51

9 A Right. I did not want that to happen. I don't like to
10 give up on something.

02:51

02:51

11 Q So you continue to come back to the studio. You
12 continue to have photo shoots, am I correct?

02:51

02:51

13 A Correct.

02:51

14 Q And your mom of course knew that you were going back to
15 the studio to have photo shoots, am I right?

02:51

02:51

16 A Right.

02:51

17 Q And your mom came up to the studio from time-to-time,
18 didn't she?

02:51

02:51

19 A Yes.

02:51

20 Q And from time-to-time your mother actually was there
21 while the photo shoots were occurring, am I correct?

02:51

02:51

22 A Not much, no.

02:51

23 Q She just --

02:51

24 A She was there for one shoot. And it was the one -- one
25 of the photos, the one with the red draped around where I

02:51

02:51

CORTNEY - CROSS/MR. SAVITT

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1 look Indian almost, that's the one she was there for.

02:51

2 Q And then she decided not to come back at all, right?

02:51

3 A Right.

02:51

4 Q And you told her everything was okay, I'm in good
5 hands?

02:51

02:52

6 A He told her everything is okay and I'm in good hands.

02:52

7 Q Okay. And she believed him, no questions asked?

02:52

8 A She believed him. Everybody did.

02:52

9 Q Everybody believed Mr. Baslan, right?

02:52

10 A Yeah.

02:52

11 Q As time progressed, you continued to go back and
12 continued to have photo shoots, am I correct?

02:52

02:52

13 A Excuse me, can you repeat that?

02:52

14 Q As time progressed, you continue to go back, right?

02:52

15 A Yes, I did.

02:52

16 Q And you continued to go back because you trusted
17 Mr. Baslan, correct?

02:52

02:52

18 A Not the same way I did before.

02:52

19 Q Well, what was the difference in trust, can you explain
20 it to us?

02:52

02:52

21 A Now I didn't have to drink anything or do anything that
22 might intoxicate me, so the same things don't happen again.

02:52

02:52

23 Q My question is: What was the difference in trust?

02:52

24 A I just told you. I know won't trust myself around him
25 -- or trust him around me. I will not go to bars. I will

02:52

02:53

CORTNEY - CROSS/MR. SAVITT

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1 not drink or do any anything like that, that could put me in 02:53
2 danger now that I was realizing, you know, something's off 02:53
3 with him. 02:53

4 Q When did you come to that realization, how old were you 02:53
5 at that time? 02:53

6 A You know, when I finally realized that something was 02:53
7 off -- I'm glad you asked me that, it's -- actually, it was 02:53
8 that night Andrea and I were having a sleepover upstairs, 02:53
9 when he came up and he fingered us both really fast and just 02:53
10 left. That was -- to me, that was like shocking almost, 02:53
11 like, he needed a fix. It seemed like it was -- 02:53

12 THE COURT: Next question, please. 02:53

13 Q Well, and certainly once you realized that this was a 02:53
14 terrible thing and that Mr. Baslan could not be trusted, you 02:53
15 told your mother about it, right? 02:53

16 A No. 02:53

17 Q You told the police about it, didn't you? 02:53

18 A No. 02:54

19 Q You didn't tell anybody about it? 02:54

20 A No, I was terrified. 02:54

21 Q You were terrified because you were afraid that he was 02:54
22 going to hurt you? 02:54

23 A (No answer was given.) 02:54

24 Q Why were you terrified? I'm asking the why? 02:54

25 A Because I didn't know what he was capable of. I don't 02:54

CORTNEY - CROSS/MR. SAVITT

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1 know what he's capable of; he could be nowhere and
2 everywhere at the same time.

3 Q Almost God-like, huh?

4 A In a sense.

5 Q But despite your fear, you continued to go to photo
6 shoots, right?

7 A Right.

8 Q With Mr. Baslan?

9 A Yeah.

10 Q And you continued to go to bars with him, right?

11 A I did not continue to go to bars with him. I went to
12 one bar with Mr. Baslan.

13 Q Where you had kind of a drink, right?

14 A Yes.

15 Q And what was that drink again?

16 A It was a fuzzy navel.

17 Q A fuzzy navel. And what does a fuzzy navel consist of,
18 if you know?

19 A It's an alcoholic beverage with peach schnapps, orange
20 juice. I don't know what else goes into it. I never had to
21 make it. I don't make drinks and stuff.

22 THE COURT: Next question, please.

23 A Seriously.

24 Q You told us something about Faraday's?

25 A Faherty's.

CORTNEY - CROSS/MR. SAVITT

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1 Q Faherty's. Is that a bar?

02:55

2 A Yes, it is a bar.

02:55

3 Q It's a real fancy bar?

02:55

4 A No, it is not a real fancy bar.

02:55

5 Q It's what, just a plain Jane kind of bar?

02:55

6 A It's a sports bar.

02:55

7 Q Who did you go with to Faherty's?

02:55

8 A Mr. Baslan.

02:55

9 Q So that was another occasion at another bar, wasn't it?

02:55

10 A That was the first time I went to the bar with him.

02:55

11 THE COURT: Just relax. Just relax and --

02:55

12 THE WITNESS: Sorry. I feel like I'm being

02:55

13 attacked here and I shouldn't be.

02:55

14 THE COURT: No, you're not being attacked. Just

02:55

15 listen to the question.

02:55

16 THE WITNESS: I just answered these.

02:55

17 THE COURT: Answer them the best you can and we'll

02:55

18 have you out of here, okay. Just relax.

02:55

19 Go ahead, Mr. Savitt.

02:55

20 THE WITNESS: Go ahead, please.

02:55

21 BY MR. SAVITT:

02:56

22 Q Are you okay? Can we continue?

02:56

23 THE COURT: Yes. Go ahead. Next question.

02:56

24 A Continue to get this over with, please, this is

02:56

25 traumatizing, I want to get this done.

02:56

CORTNEY - CROSS/MR. SAVITT

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1 Q You told us about somebody by the name of Andrea who is 02:56
2 your best friend? 02:56

3 A Yes. 02:56

4 Q And when's the last time you spoke to Andrea? 02:56

5 A Over last summer, for her wedding. 02:56

6 Q You were invited to her wedding? 02:56

7 A I was invited to her wedding. 02:56

8 Q And you spoke with her? 02:56

9 A And I spoke with her. We never talked about him, ever. 02:56

10 THE COURT: You weren't asked that. 02:56

11 THE WITNESS: Okay, but I knew that was coming 02:56
12 next. 02:56

13 THE COURT: He asked, did you speak to her, you 02:56
14 spoke to her. Next question. 02:56

15 Q What about your friend Christie? 02:56

16 A I haven't spoken to her in years; years and years. 02:56

17 Q Your friend Rachel? 02:56

18 A I haven't spoken to her in years and years. 02:56

19 Q Danielle? 02:56

20 A I still talk to Danielle. 02:56

21 Q When's the last time you spoke to her? 02:56

22 A Last week. 02:57

23 Q You spoke to her about the case? 02:57

24 A No, not about the case. I was congratulating her for 02:57
25 getting into law school and planning the next trip to get to 02:57

CORTNEY - CROSS/MR. SAVITT

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1 visit.

02:57

2 Q Apart from the prosecutors involved in this case and
3 the special agents at the FBI, who else did you speak to
4 about this case?

02:57

02:57

02:57

5 A Nobody. My mom, of course.

02:57

6 Q And the first time you told --

02:57

7 A And who I live with.

02:57

8 Q I'm sorry?

02:57

9 A My significant -- my roommate. My best friend of years
10 and years. And he knows what's going on. But he's like my
11 safe person right now, somebody there for support, which I
12 need. So, yeah, but that's it.

02:57

02:57

02:57

02:57

13 Q Let me ask you this: Have you ever worked in a -- in
14 Chicago?

02:57

02:57

15 A Yes, I did.

02:57

16 Q And did you work in the entertainment industry?

02:58

17 A Yes, I did.

02:58

18 Q And did you work in a topless bar for instance?

02:58

19 A It was not a topless bar, it was a gentleman's
20 establishment where you don't have to be topless.

02:58

02:58

21 Q Do have you to be clothed or completely unclothed?

02:58

22 A The same material you wear as a bathing suit out in the
23 public.

02:58

02:58

24 Q And what was your role? What was your job in that
25 particular establishment in Chicago?

02:58

02:58

CORTNEY - CROSS/MR. SAVITT

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1 A I was a dancer. 02:58

2 Q A pole dancer? 02:58

3 A Yes. 02:58

4 Q How long did you do that? 02:58

5 A For three months. Because when I moved to Chicago -- 02:58

6 THE COURT: No. No. 02:58

7 THE WITNESS: This is important. This is what -- 02:58

8 THE COURT: But it's not responsive, you see. 02:58

9 That's the way we do it. 02:58

10 THE WITNESS: But it's screwed up though. This is 02:58

11 wrong. 02:58

12 THE COURT: We have two lawyers in the case. If 02:58

13 the government's lawyer -- 02:59

14 THE WITNESS: Well, just carry on, please, I'm 02:59

15 done. 02:59

16 THE COURT: Now, listen to me, you'll answer the 02:59

17 questions and only the questions. 02:59

18 THE WITNESS: Yes, ask away. 02:59

19 THE COURT: So just relax. Go ahead, Mr. Savitt. 02:59

20 BY MR. SAVITT: 02:59

21 Q Was that the last job you had? 02:59

22 A What? 02:59

23 Q Was that last job you had? 02:59

24 A Yes. 02:59

25 Q How long ago was that? 02:59

CORTNEY - CROSS/MR. SAVITT

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1 A Years ago. I was 19.

02:59

2 Q So you've been unemployed for now what, six years?

02:59

3 A No, I've not been unemployed for six years, that was
4 the last job I had in that entertainment; first and last in
5 that industry.

02:59

02:59

02:59

6 Q You've had jobs since then?

02:59

7 A Yes, I have.

02:59

8 Q And in different industries?

02:59

9 A Absolutely different Industries.

02:59

10 Q What kind of industries?

02:59

11 A Retail, food, I do hair and makeup, okay?

02:59

12 THE COURT: Next question.

02:59

13 Q Have you ever taken acting lessons?

02:59

14 A I was a child actress in Vegas, but no, not actual
15 lessons.

02:59

02:59

16 Q When you say you were a child actress in Vegas how old
17 were you at the time, approximately?

02:59

02:59

18 A Seven.

03:00

19 Q I'm sorry?

03:00

20 A Like, between ages five and seven.

03:00

21 Q And how did you become a child actress in Vegas?

03:00

22 A I got casted in Las Vegas PD as a role.

03:00

23 Q And did your mother enter you into some sort of
24 contest?

03:00

03:00

25 A Yes, with Lear Casting Corporation.

03:00

CORTNEY - CROSS/MR. SAVITT

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1	Q	I'm sorry?	03:00
2	A	It was the agency I was signed with when I was kid,	03:00
3		Lear Casting.	
4	Q	And you say that you were acting in a -- what was it?	03:00
5		I didn't quite hear you.	03:00
6	A	It's called Las Vegas PD, it was a pilot.	03:00
7	Q	A pilot for a television program?	03:00
8	A	Yes.	03:00
9	Q	Did it ever make it?	03:00
10	A	That one didn't, no.	03:00
11	Q	Well, which one did make it?	03:00
12	A	More than one.	03:00
13	Q	How many pilots were you involved in as a child	03:00
14		actress?	03:00
15	A	No more pilots, but just real movies.	03:00
16	Q	So how many movies did you act in?	03:01
17	A	I was in a SyFy original movie Battle Dogs a couple of	03:01
18		years ago, last year, it's still on Netflix, now it's on	03:01
19		DVD. I just got casted as a lead role in a new movie	03:01
20		starring in a film where I play an evil queen, and that's	03:01
21		the 27th of this month, mind you. Yes, a lot going on. And	03:01
22		I got to work on Best Man Holiday with Terrence and Taye.	03:01
23		I'm really just taking matters into my own hands, because I	03:01
24		know I can always trust me.	03:01
25	Q	So when you told us earlier that you were a child	03:01

CORTNEY - CROSS/MR. SAVITT

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1 actress, that was just the beginning of an acting career,
2 right?

3 A Right.

4 Q In fact, you're acting in the movies of recent vintage,
5 am I right?

6 A Right. Just a death scene. I got my throat ripped out
7 by a werewolf and died, that's it in that movie.

8 Q All right. So that didn't really require a lot of
9 talent I would imagine?

10 A No, actually, it does, when you have to pretend that
11 you're being attacked by something that's not there at all
12 and throw yourself down and it's actually does require
13 talent. Thank you.

14 Q And you have talent in acting, don't you?

15 A I suppose, but my forte is music. Acting isn't my
16 passion, music is.

17 Q So you're also, apart from being an actress, you're
18 also a musician, am I right?

19 A Yes.

20 Q And what kind of music are you involved in?

21 A I play guitar, piano, I sing and write, I play drums
22 now for three years. Also, I know how to record and do all
23 of my own thing. I mean, I pretty much like to be the best
24 at what I can be at what I love to do.

25 Q Did you record any of the music?

CORTNEY - CROSS/MR. SAVITT

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1 A Yes.

03:02

2 Q And how many times did you do that?

03:02

3 A More than I remember.

03:03

4 Q Okay. And were any of these broadcast?

03:03

5 A Yes.

03:03

6 Q Were you the featured musician or signer or player or
7 all of the above?

03:03

03:03

8 A Yes. In Chicago I toured in a huge band, I was the --

03:03

9 it was Your Villain, My Hero. I opened up for The

03:03

10 Offspring, that was totalized?

03:03

11 Q So you've been in the entertainment industry for quite
12 awhile, and I'm talking legitimate entertainment and music?

03:03

03:03

13 A I like to call it the artistic industry, because I'm
14 more of an artist than an entertainer.

03:03

03:03

15 Q So you are both an artist and you are also a musician
16 and -- oh, I forgot, you're also an actress, right?

03:03

03:03

17 A Yes.

03:03

18 Q And you're good at acting, aren't you?

03:03

19 A Uh.

03:03

20 Q You don't think you're that good?

03:03

21 A I don't know. I mean, we are our own worse critics,
22 right.

03:03

03:03

23 Q How would you rate yourself as an actress?

03:03

24 THE WITNESS: What's the relevance to this, your
25 Honor?

03:04

03:04

CORTNEY - CROSS/MR. SAVITT

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1 THE COURT: It's not for you to determine. Can
2 you answer that question?

3 Q How would you rate yourself as an actress?

4 A Okay. Give me a number then, so I could pick one.

5 Q On a scale of one to ten, we might as well play along
6 with this.

7 THE COURT: And then we'll move along.

8 Q I'm sorry, one to ten?

9 A Ten.

10 MR. SAVITT: No further questions.

11 THE COURT: Anything further, Ms. Demas?

12 MS. DEMAS: No, your Honor.

13 THE COURT: Thank you, madam, you may step down.

14 (Witness leaves the stand.)

15 THE COURT: Next witness or lunch?

16 MR. SMITH: We'd ask to take a lunch now, your
17 Honor.

18 THE COURT: All right.

19 Let me explain to you, ladies and gentlemen, we
20 have moved along in a very brisk pace, ahead of schedule, if
21 you will, so things might be a little bit choppy today.

22 We're going to end the day at 4:00, okay? So you'll be on
23 your way then by 4:00. And Monday we will begin at 10:30.

24 We have a big question mark about Monday for all
25 the obvious reasons, so just to give ourselves a comfort

CORTNEY - CROSS/MR. SAVITT

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1 zone, we're going to start at 10:30. I'll remind you this
2 afternoon. So go and enjoy a pleasant lunch and we'll
3 resume at 1:30.

03:05
03:05
03:05

4 COURTROOM DEPUTY: All rise.

03:05

5 (Jury is out of the courtroom at 12:27 p.m.)

03:05

6 THE COURT: I count two witnesses left?

03:05

7 MS. DEMAS: Yes, your Honor.

03:05

8 THE COURT: And we'll be ready at 1:30.

03:05

9 MR. SMITH: We'll be ready with someone, your

03:05

10 Honor.

03:05

11 THE COURT: I'm sorry?

03:05

12 MR. SMITH: We will be ready.

03:06

13 THE COURT: Okay. Thank you, gentlemen, madam.

03:06

14 See you then.

03:06

15 (Proceedings were recessed for lunch and
16 recalled.)

03:06

17 (Continued on the next page.)

03:06

18

19

20

21

22

23

24

25

1 (Outside the presence of the jury.)

2 THE COURT: Please be seated, everyone.

3 Mr. Smith, will you introduce your witness, please.

4 MR. SMITH: The government calls Mohammed Boudaoud.

5 THE CLERK: Do you swear or affirm that the
6 testimony you shall give in this case, now on trial before
7 this Court and Jury, will be the truth, the whole truth and
8 nothing but the truth, so help you God?

9 THE WITNESS: I do.

10 THE CLERK: Thank you. Please have a seat.

11 THE WITNESS: Thank you.

12 THE CLERK: State and spell your name for the
13 record.

14 THE WITNESS: My name is Mohammed Boudaoud,
15 M-o-h-a-m-m-e-d. Last name is B, as in boy, o-u-d, as in
16 David, a-o-u-d, as in David.

17 MOHAMMED BOUDAUD,
18 called as a witness, by and on behalf of the government,
19 having been first duly sworn, was examined and testified as
20 follows:

21 THE COURT: All right.

22 DIRECT EXAMINATION

23 BY MR. SMITH:

24 Q Good afternoon.

25 A Good afternoon.

Boudaoud - Direct - Smith

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1 Q Who do you work for?

2 A I work for a Bouselen (phonetic) Hamilton Company, which
3 is a government contractor. I am a subcontract, which makes
4 me an independent consultant.

5 Q As a subcontractor, independent consultant, do you work
6 with a particular government agency?

7 A Yes, sir. I have been providing technical services and
8 support for the same group, which is a Crypto Logic and
9 Electronic Analysis Unit since 1996.

10 Q Is that the same group Jason Abamowitz was associated
11 with?

12 A He was.

13 Q What's your role with respect to that group?

14 A I'm a senior engineer. I deal with evidence recovery and
15 processing from obfuscated devices.

16 Q Can you tell us your educational background?

17 A Between 1978 and 1986, I completed the requirements for
18 receiving Bachelor's, and Master's and a Ph.D. in Electric
19 Engineering.

20 Q What about after that?

21 A After that, I joined Bell Laboratories, AT&T, as a
22 researcher, I spent from '86 to '89, and then after that, I
23 went to work for DOD Contractors, from '99 to '96, doing
24 pretty much the same thing, information and intelligence
25 recovery from devices and signals.

Boudaoud - Direct - Smith

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1 Q What's the admission of the unit you're associated with
2 in the FBI?

3 A We're a Cryptology Unit, so we deal with encryption and
4 decryption of obfuscated information.

5 THE COURT: We've heard that word now repeatedly.
6 Define it in layman's terms, if you would.

7 THE WITNESS: Yes. Encryption is an electronic --
8 we talk about -- there's manual encryption and electronic
9 encryption. Manual encryption is the old fashion of mixing
10 messages; one is a secret, and one is information that you
11 will not keep secret. An electronic encryption is a method by
12 which you use a computer to obfuscate your information as to
13 deny access to a third party.

14 Q Is that a process by which you convert something that is
15 readable into an unreadable form?

16 A That's correct.

17 Q To get it back in a readable form, what do you need?

18 A You need to decrypt, which means you need the original
19 algorithm that was used and the encryption parameters that
20 were used to encrypt the message. The encryption parameters
21 are often called "the secrets," the notion of keying, the
22 notions of things that would end lock the information.

23 Q You said earlier that is obfuscated information; is that
24 the same thing as hiding it?

25 A Yes, sir.

Boudaoud - Direct - Smith

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1 Q Now, in May, 2013, were you asked to examine an encrypted
2 drive in connection with an investigation of Bebars Baslan?

3 A Yes, sir.

4 Q What type of drive was that?

5 A It was an Apricorn Padlock 2.

6 Q What steps did you take after you received that encrypted
7 device?

8 A When I received the encrypted device, I do pretty much
9 what we operationally do as a standard. I acquired -- I
10 purchased two drives of the same make and model, different
11 sizes, and I went -- and I started analyzing it, to verify
12 that it was encrypted, that it was locked, that it was not
13 readable through standard means.

14 Q Did you verify that that device you received was locked
15 and not readable for your standard means?

16 A That is correct.

17 Q What did you do after that?

18 A After that, I went through nelsis (phonetic) methods to
19 determine the algorithm and the parameters necessary to
20 decrypt the information on the drive.

21 Q Were you ultimately able to generate a process that would
22 decrypt information on that drive?

23 A That is correct. Using the sample drives that I had
24 purchased, I put my own information on those drives. I
25 analyzed the contact, derived the information necessary to

Boudaoud - Direct - Smith

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1 decrypt my own information from the samples as a validation
2 process, repeated it on both devices. I was not only able to
3 recover the user information that I put on there but the
4 information the computers put on the hard drive to -- as a
5 mapping, to find your files, folders, things that are commonly
6 used to access hard drives on your computer.

7 Q You use the word algorithm. What's an algorithm?

8 A Is a mathematical technique, a procedure, with step one,
9 step two and steps that allows you to go systematically,
10 not -- you're not making decisions based on what you think is
11 there, but you're making systematic decisions to go the steps,
12 and at the end you receive something that -- whether you
13 expect or not makes sense.

14 Q Now, if you have an encrypted device, and you attempt to
15 decrypt it, is it possible to decrypt it or to access
16 something in readable form that was not originally there?

17 A No, it's impossible, because the decryption of
18 information is a form of encryption. If you take information
19 that has been encrypted with an algorithm and set of
20 perimeters, and you decrypt it with the wrong perimeters or
21 the wrong algorithm, you end up with another encrypted file.
22 It's just different file, but random and readable, has no
23 relation to what was that originally.

24 Q Essentially, if you get back something in readable form,
25 you can say with confidence that that was what was there

Boudaoud - Direct - Smith

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1 before it was originally encrypted?

2 A Correct.

3 Q With respect to the device in this case, after you ran
4 your process on it, did you do anything to validate that
5 process?

6 A Yes. Since I don't know, and I'm not a forensic
7 examiner, I do not go looking at the content of the file.
8 What I have is -- I know what the file system -- or this
9 mapping of files that is put on the hard drive by a computer
10 before you can -- for a user, can make use of the hard drive.
11 That information is standard. Content of it is not but the
12 procedural, you have files, you have folders, you have check
13 blocks; you have all kinds of things that allow the computer
14 to access your hard drive once you plug it in. And it gives
15 you the name of your files, gives you the name of your
16 folders, gives you all the information that you expect when
17 you put your device into the computer. The system goes
18 through a lot of checks to make sure that the system is
19 healthy, is coherent, it hasn't been modified, it's not
20 corrupt, none of that. That is what I use to validate that I
21 decrypted the drive as a whole completely --

22 Q And did you find --

23 A -- and successfully. Sorry.

24 Q Did you find that the majority of the files on that were
25 now decrypted after you ran your process?

Boudaoud - Direct - Smith

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1 A Yes. Because I find names that are readable; they have
2 attributes, like date of creation, date of modification, sizes
3 that are coherent, healthy; basically the whole file system,
4 like folders and files that are in the right place, they are
5 the right sizes, they have the right names. If you don't
6 decrypt correctly, the system will tell you that your hard
7 drive is corrupt, meaning your filing system is messed up.

8 Q And after you ran that process and came back with that
9 file system, did you take any steps to determine whether there
10 were any parts of the drive that remained encrypted?

11 A Correct, because the tasking said "recover all." What we
12 usually do is look for other obfuscated information, other
13 encryption. We look at whether the software on the hard drive
14 that can encrypt, and we look at standard encrypted files and
15 folders. Once we get into the file system, it puts us in an
16 arena of a manufacturer, what he puts on the drive, what they
17 actually -- the methods that they advertise. And I did. I
18 did pretty much that. After I looked at the files, I did find
19 an encrypted file.

20 Q And does that mean that before the drive was encrypted
21 with the method that you bypassed, that someone had encrypted
22 a portion of that drive with another method?

23 A That is correct.

24 Q Do you specialize in another type of encryption.

25 A Yes, hardware encryption.

Boudaoud - Direct - Smith

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1 Q And the encrypted file you found after you encrypted the
2 majority of the device, was that a hardware encryption?

3 A No, it was a software encryption.

4 Q What did you do with the drive after you had decrypted
5 the hardware encrypted portion?

6 A I took the results. I took the final -- you know,
7 so-called drive results, which is an image of the decrypted
8 drive, gave it back to the forensic examiner and told him of
9 the existence of the encrypted file or folder, and I asked him
10 to ask for guidance from the case agent and the people in
11 charge of the case, whether they want us to do something there
12 or whether they want to ask for support from other
13 organizations.

14 MR. SMITH: Thank you, Doctor. I have no further
15 questions.

16 THE COURT: Mr. Savitt, do you have any questions?

17 MR. SAVITT: May I have a minute, your Honor?

18 THE COURT: Sure.

19 MR. SAVITT: I have no questions.

20 THE COURT: All right. Thank you, Doctor. You may
21 step down.

22 Next witness.

23 MR. SMITH: The government calls Special Agent Linh
24 Phung.

25 THE CLERK: Good afternoon.

Phung - Direct - Smith

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1 THE WITNESS: Good afternoon.

2 THE CLERK: I'm going to ask you to please take the
3 stand and raise your right hand. Do you swear or affirm that
4 the testimony you shall give, in this case now on trial before
5 this Court and Jury, will be the truth, the whole truth and
6 nothing but the truth, so help you God?

7 A I do.

8 THE CLERK: Thank you. Please have a seat. State
9 and spell your name for the record.

10 THE WITNESS: Linh Phung. First name L-i-n-h, last
11 name, P-h-u-n-g.

12 LINH PHUNG,
13 called as a witness, by and on behalf of the government,
14 having been first duly sworn, was examined and testified as
15 follows:

16 DIRECT EXAMINATION

17 BY MR. SMITH:

18 Q Good afternoon, Special Agent Phung.

19 A Good afternoon.

20 Q Who do you work for?

21 A FBI.

22 Q What's your title?

23 A Special Agent.

24 Q How long have you been a Special Agent with the FBI?

25 A For about eight years now.

Phung - Direct - Smith

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1 Q What did you do before you were a Special Agent for the
2 FBI?

3 A I was a government contractor, as a network engineer.

4 Q Do you work in a particular unit of the FBI?

5 A Yes.

6 Q What unit is that?

7 A The Violent Crimes Against Children.

8 Q How long have you been in the Violent Crimes Against
9 Children Squad?

10 A For over four-and-half years now.

11 Q What types of cases do you investigate as a Special Agent
12 in the Violent Crimes Against Children Squad?

13 A Mostly investigate anything involving crimes against
14 children, sexual exploitation, specifically child pornography.

15 Q As part of your duties and responsibilities as a Special
16 Agent in the Violent Crimes Against Children Squad, do you
17 have to review electronic evidence?

18 A Yes.

19 Q What kinds of evidence have you had to review?

20 A Computers, thumb drives, CDs, and any other storage media
21 devices.

22 Q And are you called upon to review child pornography?

23 A Yes.

24 Q Were you at some point asked to review electronic
25 evidence seized in connection with the investigation of Bebars

Phung - Direct - Smith

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1 Baslan?

2 A Yes.

3 Q What some kind of evidence did you review?

4 A I reviewed two laptops, a McIntosh computer and external
5 hard drive.

6 Q Let me first refer to a laptop seized from Mr. Baslan's
7 backpack. Did you review evidence seized from that laptop?

8 A Yes.

9 Q And during the course of that review, did you see any
10 programs consistent with remotely logging into a computer
11 system?

12 A Yes.

13 Q What programs?

14 A I found program Log Me In.

15 Q Did you also review electronic evidence that came from a
16 laptop seized from Mr. Baslan's residence?

17 A Yes.

18 Q In what format did you review that?

19 A I was able to review the contents of the evidence using
20 an application called FTK.

21 Q I'd like to show you what's been marked Government
22 Exhibit A -- 37A through 37BB. Have you had a chance to look
23 at those before?

24 A Yes.

25 Q And are those portions of the FTK Report relating to the

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1 laptop seized from the defendant's residence?

2 A Yes.

3 MR. SMITH: The government offers 37A to 37BB.

4 THE COURT: Any objection?

5 MR. SAVITT: Subject to your Honor's previous
6 ruling, no, there's no objection.

7 THE COURT: They are received.

8 (Government's Exhibit 37A through 37BB were
9 received in evidence.)

10 Q Now, during the course of reviewing that evidence, did
11 you identify a resume with the defendant's name on it?

12 A Yes, I did.

13 Q And where was that?

14 A That was on the laptop that was seized from the
15 residence.

16 MR. SMITH: If we can turn on the document camera.

17 THE CLERK: Certainly.

18 Q This is 37A. Can you identify what 37A consists of?

19 A It's an e-mail sent from BBaslan@me.com to Annette
20 Pender, which contains attachments.

21 Q What is the attachment?

22 A Bebars Baslan's resume.

23 Q I'm going to show you 37B. Is this the resume that was
24 attached to that?

25 A Yes.

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1 Q I'm not going to go through every item on this resume,
2 but does it detail various technical jobs that the defendant
3 has had?

4 A Yes, it does.

5 Q And looking just at the very lowest portion, does it
6 indicate various technologies that he indicates he is
7 proficient with?

8 A Yes.

9 Q I'd like to show you 37C. Was this another of the
10 documents that you found on the defendant's laptop?

11 A Yes.

12 Q Now, is 37C the same document as 37Z but with the name
13 redacted?

14 A Yes, it is.

15 Q Could you read the text of 37C?

16 A My name is Courtney. I am 19 years old. I currently
17 reside at blank. On/or about November, 2005, I came to work
18 with Bebars Baslan as a modern photography. Mr. Baslan has
19 been and to this day conducts himself in a very professional
20 matter. We always had a chaperone present during all
21 photography shoots in which I was involved. All the shoots
22 were appropriate for my age at the time. We never had
23 romantic relationship, and at no time did Mr. Baslan solicit
24 my affections. He's never solicited suggested that we engage
25 in any acts of physical intimacy nor have we ever had intimate

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1 relations of any kind. I, Cortney, being first duly sworn,
2 under oath, according to law, disposes and says she has read
3 the foregoing affidavit. The matters stated herein are truth
4 with the best of information, knowledge and belief.

5 Q And is there a space for a notary public to swear in and
6 subscribe this?

7 A Yes, there is.

8 Q Were you able to extract the filepath where it was stored
9 on the defendant's computer?

10 A Yes.

11 Q Let me show you 37D. Is that the filepath?

12 A Yes, it is.

13 Q And is that name indicated on the top affidavit Cortney
14 dot dot? Is that the name of the file?

15 A Yes.

16 Q Now, when you reviewed this file, were you also able to
17 extract properties that related to the document as it was
18 stored in the system?

19 A Yes.

20 Q Let me show you 37E. Is this the properties of that
21 document?

22 A Yes, it is.

23 Q And I want to point you particularly to the bottom of
24 that, where it indicates the content created. Can you read
25 what that date is?

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1 A The content created date is 8/17/2009.

2 Q And there's also a date saved. What's that?

3 A Date saved is 8/17/2009.

4 Q And there's also a last printed date?

5 A 6/26/2009.

6 Q Do you have an understanding why the last printed date
7 would be before the content created date?

8 A It could be the copy from another computer, the file.

9 Q I'd like to show you 37F. Is this another document from
10 the defendant's computer?

11 A Yes.

12 Q And looking at -- I left 37AA there. Is that an
13 unredacted copy of the same one?

14 A Yes, it is.

15 Q And without reading the entire document, is this
16 substantially the same in content than is an affidavit,
17 indicating the same things as the document that we just looked
18 at?

19 A Yes, it is, with exception to the name and the date.

20 Q And are there also a few differences in the text; it's
21 not precisely the same?

22 A Yes.

23 Q Were you able to extract the filepath relating to this
24 document?

25 A Yes.

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1 Q I'm putting up 37G. Is that the filepath?

2 A Yes, it is.

3 Q And it indicates in that filepath user BBaslan; is that
4 right?

5 A Yes.

6 Q And the name of the document, affidavit spelled with two
7 Vs?

8 A Yes.

9 Q Were you able to extract the properties relating to that?

10 A Yes.

11 Q Let me show you 37H. And what is this we're looking at?

12 A The properties of the affidavit.

13 Q And can you read what the content created date is?

14 A 6/25/2009.

15 Q And the date last saved?

16 A 6/26/2009.

17 Q Can you also read the author?

18 A The author is Annette Pender.

19 Q And just to refer back to the e-mail we looked at,
20 Government Exhibit 37A, do you recall who that was sent to? I
21 can put it back up for you.

22 A Yes, please. To Annette Pender.

23 Q From?

24 A BBaslan@me.com.

25 Q Put up 37I. Is this another document seized from the

Phung - Direct - Smith

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1 defendant's laptop?

2 A Yes.

3 Q And is this another affidavit?

4 A Yes.

5 Q What's the name on this one?

6 A Christie Ann.

7 Q And is this the same or just a redacted copy that you
8 have in front of you as 37BB?

9 A Yes, it is.

10 Q What is the first letter of the last name on the document
11 in front of you, 37BB?

12 A For -- can you repeat that again?

13 Q What's the first letter of the last name on the document
14 in front of you?

15 A "C".

16 Q And were you able to extract the filepath information for
17 this document?

18 A Yes.

19 Q Is that what we're looking at now, 37J?

20 A Yes, it is.

21 Q What is the document's name?

22 A Affidavit-Christie dot dot.

23 Q Were you able to extract properties from this document?

24 A Yes.

25 Q Going to show you 37K. What is this?

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1 A It's the properties of the affidavit.

2 Q Can you read who the author is listed as?

3 A Annette Pender.

4 Q And who it was last saved by?

5 A Bebars Baslan.

6 Q And the content created date?

7 A 8/17/2009.

8 Q And the date last saved?

9 A 8/17/2009.

10 Q And the last printed date?

11 A 6/26/2009.

12 Q Did you also review files from an Internet cash?

13 A Yes, I did.

14 Q Let me show you 37L. I want to direct your attention to

15 that line that says "path." Its indicated, approximately

16 there, Apple Safari. Do you know what Safari is?

17 A Safari is an Internet web browser.

18 Q And it's indicated cash. Is that the temporary storage

19 for that web browser?

20 A Yes, it is.

21 Q Were you able to recover what the actual document was

22 being looked at on that web page was?

23 A Yes.

24 Q Show you 37M. Can you see that well enough?

25 A Yes.

Phung - Direct - Smith

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1 Q Could you read what that says right in the top, in the
2 center?

3 A It says "Swordman Lolita For You."

4 Q Based on your experience investigating child pornography
5 crimes, are you familiar with the term "Lolita"?

6 A Yes.

7 Q What does that term mean?

8 A It's normally associated with child erotica and
9 prepubescent girl who is acting sexually.

10 Q I'm zooming in a bit. I'd like to direct your attention
11 on the very top right, it is currently. What date does it
12 indicate?

13 A March 17th, 2013.

14 Q And what time?

15 A At 9:13 a.m.

16 Q I'm sorry. What time is that?

17 A 9:22 a.m., UTC. Sorry.

18 Q And can you just read what the heading is there?

19 A "Video Collection."

20 Q And under topics, what's indicated?

21 A "All fixed links, how to buy premium, please read this
22 book before downloading."

23 Q Are there a number of entries labeled set?

24 A Set 46 to 50, set 41 to 45, set 36 to 40, set 31 to 35,
25 and it's all the authored by Swordman.

Phung - Direct - Smith

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1 Q And it ultimately has approximately 50 sets listed?

2 A Yes.

3 Q I'd like to show you 37N. Is this the filepath of
4 another document from the Internet cash?

5 A Yes.

6 Q Let me show you 37-0. Is this the document that that
7 filepath relates to?

8 A Yes, it does.

9 Q Is that the same page of sets under Video Collection?

10 A Yes, it is.

11 Q And what's the time listed as at the top of that one?

12 A It's 2:09 a.m.

13 Q On what day?

14 A March 18th, 2013.

15 Q Let me show you 37Q. Is this the filepath for another
16 document from the Internet cash?

17 A Yes.

18 Q And 37P, is this that document?

19 A Yes, it is.

20 Q And can you -- is that the same document we've been
21 looking at, Video Collection?

22 A Yes, it is.

23 Q Can you read what the date and time of this one is?

24 A March 18th, 2013, 2:42 p.m.

25 Q I'm going to show you 37S. This is another document from

Phung - Direct - Smith

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1 the Internet cash?

2 A Yes.

3 Q And 37R. Is this the web page that that corresponds to?

4 A Yes.

5 Q Is it again the same Video Collection page with a
6 different day?

7 A Yes, it is.

8 Q What's the date on this one?

9 A March 19th, 2013.

10 Q At what time?

11 A 7:19 p.m.

12 Q And those times are in -- you said UTC; is that right?

13 A Times are in UTC.

14 Q What does UTC mean?

15 A It's also known as Greenwich Mean Time. It is about four
16 or five hours ahead of us, of Eastern Standard Time.

17 Q Show you 37U, is that another document from the Internet
18 cash?

19 A Yes, it is.

20 Q That's the filepath.

21 A Yes.

22 Q 37T, is this the website that that corresponds to?

23 A Yes.

24 Q And looking at the left side of this, what's indicated
25 under the "Under Where I Live"?

Phung - Direct - Smith

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1 A Lolita.

2 Q And can you read the entries below that?

3 A Video Collection, Lolita Videos, Pictures Collection,
4 Lolita Pictures, Art Video Collection; Lolita Art Videos,
5 Special Collection, Lolita Special Videos, All-Star Video
6 Collection, Lolita All-Star Videos.

7 Q And can you indicate -- can you read the time that this
8 indicates at the top?

9 A March 5th, 2013.

10 Q Is that March 19th?

11 A March 19th, 2013, at 4:10 a.m.

12 Q Let me show you 37W. Is this yet another filepath for
13 Internet cash?

14 A Yes.

15 Q And 37V, is this the corresponding document?

16 A Yes.

17 Q And can you read what it says up at the top?

18 A March 19th, 2013 4:10 --

19 Q What's the title of this?

20 A Set one to five.

21 Q And below that, what is -- can you read the section that
22 I've just indicated?

23 A Can you make it a little bit clearer?

24 Q Yes, I can.

25 A Under set one, it says Screen Shot SS - set 01.RAR,

Phung - Direct - Smith

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1 R-A-R-822 megabytes, download links. And below there are
2 three links titled Swordman_collection_set_001 part one.RAR
3 1.7 gigabytes.

4 Q 1.7 gigabytes, is that the type of notation you would
5 have for a file size?

6 A Yes.

7 Q Show you 37Y. Is this another filepath from Internet
8 cash?

9 A Yes.

10 Q And 37X, is this the Internet -- the website that
11 corresponds to that?

12 A Yes, it is.

13 Q And can you read the date up at the top of that?

14 A March 19th, 2013.

15 Q At what time?

16 A 7:19 p.m.

17 Q What was the title of this?

18 A Set 26 at 30.

19 Q Does that look like the last one we looked at?

20 A Yes.

21 Q Is there an indication of download links?

22 A Yes, there is.

23 Q And various files entitled Swordman Collection?

24 A Yes.

25 Q Did you also review evidence originating from an Apricorn

Phung - Direct - Smith

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1 hard drive?

2 A Yes.

3 Q Did you receive evidence that had been received in
4 decrypted format?

5 A I believe so, yes.

6 Q How did you come to see that evidence?

7 A I was able to review the content of the evidence using
8 the software called FTK.

9 Q What types of files were you reviewing?

10 A Video and image files.

11 Q What types of video and images were those?

12 A Mostly containing child pornography.

13 Q Also child erotica?

14 A Yes.

15 Q Do you know what the approximate total number of files
16 contained in the Apricorn hard drive was?

17 A There were approximately 111,800 files.

18 Q And of those files, approximately how many contained
19 child pornography, child erotica?

20 A 76,000.

21 Q And of those files, were they image files?

22 A Yes.

23 Q Were they also video files?

24 A Yes, they were.

25 Q How does that size collection compare to other cases

Phung - Direct - Smith

495

1 you've worked?

2 A In all my years, this is the largest collection I've ever
3 seen.

4 Q Were you asked to take a sample of child pornography,
5 images and videos?

6 A Yes, I was.

7 Q How many files did you take?

8 A I took approximately nine files, nine to ten.

9 Q And were those files saved in the folders on the device
10 itself?

11 A Yes, it was.

12 Q During the course of your review of the Apricorn hard
13 drive, did the name Swordman appear?

14 A Yes, it did.

15 Q What context?

16 A One of the folders was entitled the same way,
17 Swordman_collection. And there are other special collection,
18 SS as well.

19 Q So when you say it was titled the same way, you mean it
20 was titled the same way as the Swordman links that appear to
21 be download links on the website Internet cash pages we just
22 looked at?

23 A Yeah, with the exception of the RAR.

24 Q I'm going to bring up what's been marked Government
25 Exhibit 39. Do you recognize that?

Phung - Direct - Smith

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1 A Yes.

2 Q What is it?

3 A It's a CD containing child pornography.

4 Q Is that the sample you created?

5 A Yes.

6 MR. SMITH: Government offers Government Exhibit 39.

7 MR. SAVITT: Subject to your ruling.

8 THE COURT: Received in evidence, 39.

9 (Government's Exhibit 39 was received in evidence.)

10 Q Did you during the course of your review, did you review
11 a file entitled Mom Teach Sex Daughter 2yo?

12 A Yes, I did.

13 Q What type of file is that?

14 A It's a video file.

15 Q Approximately how long is it?

16 A It's approximately 26 minutes.

17 Q Does it have audio?

18 A Yes, it does.

19 Q Could you describe what that video file consists of?

20 A The video file consists of an adult female and an a girl
21 who appears to be two years old, and at the beginning of the
22 video, they're sitting in front of a computer and they're
23 viewing what appears to be child pornography. Throughout the
24 video, the mom's feeding yogurt to the girl, and the girl
25 would licking it off the mom, and they would both be nude in

Phung - Direct - Smith

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1 the video.

2 Q Did you cut clips out of this video for purposes of the
3 trial?

4 A Yes, I did.

5 Q How many clips did you cut?

6 A Three.

7 Q Can you describe the first clip?

8 A The first clip is the scene I described before, the adult
9 female and the girl both viewing what appears to be child
10 pornography on the computer.

11 Q Where in the video?

12 A In the first 14 seconds.

13 MR. SMITH: I would like to play that first clip
14 from Government Exhibit 39.

15 THE COURT: No audio, right?

16 MR. SMITH: We're set up in the -- that's correct,
17 your Honor. We don't have the sound plugged in. I'm not
18 seeing it on the screen. Position one. Play that first clip.

19 (Video played for the jury.)

20 Q Can you describe the second clip that you cut?

21 A The second clip is approximately one minute long, and
22 they're -- I believe they're both nude at the time, and the
23 mom's feeding the girl yogurt, and the girl's licking the
24 yogurt off of the mom.

25 Q Where in the video is that?

Phung - Direct - Smith

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1 A I cannot recall.

2 MR. SMITH: Can you play the second clip.

3 (Video played for the jury.)

4 Q Am I correct that that occurs approximately midway
5 through the video?

6 A Yes, you're correct.

7 Q And can you describe the third clip that you cut?

8 A Third clip is the adult female licking the girl's vagina.

9 MR. SMITH: Can you play that.

10 (Video played for the jury.)

11 THE COURT: May I see counsel at sidebar briefly.

12 (Sidebar - Outside the presence of the jury.)

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Sidebar

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1 THE COURT: I've reconsidered. We've had enough of
2 this stuff. I don't want the ejaculation scene. What was the
3 other one? What was the other scene?

4 MR. SAVITT: Penetration. We don't have to impose
5 this stuff on the jury. The point's made. Let's get through
6 this.

7 MR. SMITH: Can I make a record as to the witness
8 testifying?

9 THE COURT: Yes.

10 (Sidebar concluded.)

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Phung - Direct - Smith

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1 (In open court - In the presence of the jury.)

2 Q Did you also review a file called burr sell (phonetic)
3 sex?

4 A Yes, I did.

5 Q And what type of file was that?

6 A It's also a video file.

7 Q How long was it?

8 A It's approximately, if I can recall, 34-minutes long.

9 Q Can you describe what it depicts?

10 A The video file depicts two different scenes, involving
11 two different girls. The first scene has a girl who appears
12 to be approximately six years old, and she's completely nude
13 except she's wearing black stockings, and she's holding an
14 erect penis in her hand. And the second scene is a different
15 girl, probably about the same age, wearing white stockings,
16 and there's an adult male penetrating her.

17 Q I'm going to show you what's in evidence as Government's
18 Exhibits 46B and 46C. Take a look at those. There was
19 previous testimony that these were from the undercover
20 reporting made by confident informant. Do you recognize the
21 video on the screen in those photos?

22 A Yes, I do.

23 Q What video is it?

24 A It was the video I just described.

25 Q Did you review another file entitled Pthc 6yo Girl

Phung - Direct - Smith

501

1 Drugged and Ass Raped?

2 A Yes, I did.

3 Q What type of file is that?

4 A It's a video file.

5 Q How long is it?

6 A It's -- I don't recall at this point in time.

7 Q Based on your experience, do you have an understanding of
8 what the word Pthc means?

9 A Yes.

10 Q What does it mean?

11 A It means pre-teen hard core.

12 Q What does that video depict?

13 A At the beginning of the video, we see a nude girl who is
14 completely nude, and she has towel over her eyes and she
15 appears to be unconscious. And later in the video she gets
16 penetrated in the anus.

17 Q Did you review a file entitled 1005 New! 9yo Tory 01 LXM
18 AD Quality Child Lover Pthc kidzilla 08?

19 A Yes, I did.

20 Q What type of file is that?

21 A It's an image file.

22 Q Can you describe what it depicts?

23 A The image file depicts a completely nude girl who has her
24 legs spread apart, exposing her genitalia.

25 Q Did you review another file that features the same

Phung - Direct - Smith

502

1 victim?

2 A Yes, I did.

3 Q Was that a file named Imagine 0886_4E52399A?

4 A Yes, it was.

5 Q Can you describe what that one depicted?

6 A In that particular image, there appears to be a male
7 whose pair of jeans was pulled down to his knees, and his
8 erect penis is over the girl's face.

9 MR. SMITH: Your Honor, I'd like to read a
10 stipulation.

11 THE COURT: Go right ahead.

12 MR. SMITH: It is hereby stipulated and agreed, by
13 and between the United States of America, by Assisting United
14 States Attorneys Tyler Smith and Tiana Demas, and the
15 defendant Bebars Baslan by his attorney Ephraim Savitt that if
16 James Wines were called to testify at trial, he would testify
17 as follows:

18 James Wines has been employed as a Special Agent
19 with the Federal Bureau of Investigation for over 16 years and
20 is currently assigned to the New Haven Division of the FBI.
21 Special Agent Wines has on several occasions met Victoria R.,
22 a female child born on July 21st, 1995. Victoria R. was
23 sexually abused and photographed by William Oina in Greenwich,
24 Connecticut when Victoria R. was between approximately 9 and
25 11 years old.

Phung - Direct - Smith

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1 The images of sexual abuse Victoria R. were placed
2 on the Internet, and this series of images is commonly known
3 as the Hawaiian Purple Series. The image file
4 image-0886_4E52399A, admitted into evidence as part of
5 Government Exhibit 39, is part of the Hawaiian Purple Series
6 that depicts Victoria R., who is approximately nine years old
7 at the time the image was taken, the image file 100522 New yo
8 Tory 01 LSM KD Quality Child Lover Pthc kidzilla 08 kpg,
9 admitted into evidence as part of Government Exhibit 39, is
10 part of the Hawaiian Purple Series and depicts Victoria R.,
11 who is approximately nine years old at the time of this video.
12 This stipulation may be received into evidence.

13 THE COURT: So stipulated, Mr. Savitt?

14 MR. SAVITT: So stipulated.

15 THE COURT: Is it marked, the stipulation?

16 MR. SMITH: It is not, your Honor.

17 THE COURT: All right. At some point, let's put a
18 mark on it.

19 MR. SMITH: Government 53, your Honor.

20 THE COURT: Government Exhibit 53, the stipulation,
21 is received, by stipulation, in evidence.

22 (Government's Exhibit 53 was received in evidence.)

23 Q Did you review a file called Pthc ptsc 9yo jenny in
24 nylons and collar tied up.JPJ?

25 A Yes, I did.

Phung - Direct - Smith

504

1 Q Do you have an understanding of what the term Pthc means?

2 A Yes.

3 Q What does that image depict?

4 A The image depicts a girl who is approximately nine years
5 old. She is nude, with the exception of black stockings, and
6 she has her hands tied above her head at the wrists, and her
7 legs are tied at their respective sides, exposing her
8 genitalia.

9 Q Was the victim depicted in other images found on the
10 defendant's hard drive?

11 A Yes, it is.

12 Q Was it in image files, and video files or both?

13 A Both.

14 Q And does it depict that victim engaging in sexual
15 activity with a dog?

16 A Yes.

17 Q Did you also review a file entitled LC-6.JPJ?

18 A Yes.

19 Q What does that image depict?

20 A Image depicts a girl who appears to be approximately five
21 years old. Her legs are spread apart, and there appears to be
22 semen on her vagina. And underneath it, I believe it says --
23 I can't remember. Something about gang-banging toddlers.
24 Cure for AIDS, gang-banging toddlers.

25 Q Did you review a file entitled Pthc JH0-Babies

Phung - Direct - Smith

505

1 Compilation of Rare Toddler Baby Bits?

2 A Yes, I did.

3 Q What type of file is that?

4 A It's a video file.

5 Q How long is it?

6 A Approximately 45 minutes long.

7 Q And what does it depict?

8 A It depicts 12 different scenes, mostly involving babies
9 and toddlers, men masturbating, digital penetration of the
10 kids, vaginal penetration as well.

11 Q Did you review a file titled Kely 4 yo?

12 A Yes.

13 Q What type of file is that?

14 A A video file.

15 Q How long is the video?

16 A Approximately 30 seconds.

17 Q What does it depict?

18 A It depicts a girl who appears to be approximately five
19 years old laying on a bed. There is an adult male kneeling
20 over her, and at the scene -- one of the scenes, she tries to
21 get up, and he would push her head down and then ejaculate in
22 her mouth.

23 MR. SMITH: I'd like to read another stipulation,
24 Judge.

25 THE COURT: All right.

Phung - Direct - Smith

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1 MR. SMITH: It is hereby stipulated and agreed by
2 and between the United States America, by Assistant United
3 States Attorneys Tyler Smith and Tiana Demas, and the
4 defendant, Bebars Baslan, by his attorney Ephraim Savitt that
5 if Sean Mullen were called to testify at trial, he would
6 testify as follows:

7 Sean Mullen has been employed as a Special Agent
8 with the Federal Bureau of Investigation for over ten years
9 and is currently assigned to the San Antonio Division of the
10 FBI. Special Agent Mullen has on several occasions met the
11 child depicted in the video, Kely 4 yo.avi, who is a female
12 child born in September 1996. That child was sexually abused
13 and video-recorded by David Diehl in Texas when she was
14 approximately three years old. The videos for sexual abuse
15 were placed on the Internet, and this series of videos is
16 commonly known as the See Baby Series. The video file of
17 Kely 4 yo.avi was admitted into evidence as part of Government
18 Exhibit 39, is part of the See Baby Series and depicts the
19 victim -- the above victim when she was approximately three
20 years old. This stipulation may be received into evidence in
21 Discovery Exhibit 54.

22 MR. SAVITT: So stipulated.

23 THE COURT: In evidence, 54.

24 (Government's Exhibit 54 was received in evidence.)

25 MR. SMITH: I have no further questions.

Phung - Cross - Savitt

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1 THE COURT: Mr. Savitt, any questions?

2 MR. SAVITT: Very, very briefly.

3 CROSS-EXAMINATION

4 BY MR. SAVITT:

5 Q Good afternoon, Agent Phung.

6 A Good afternoon.

7 Q You just described for us some of the images, some of the
8 videos that were recovered from the Apricorn hard drive?

9 A Yes, sir.

10 Q All of the images and the videos that you describe, are
11 those images that come from the Internet?

12 A Could be. I don't know.

13 Q You don't know, one way or the other?

14 A It could be. I mean, the child pornography files could
15 be obtained anywhere, from another person's hard drive or from
16 the Internet.

17 Q Do you know where these were particularly downloaded
18 from?

19 A Not that I know of, no.

20 Q Do you know any of the persons that are depicted in any
21 of the videos or digital images that you describe for us?

22 A No, with the exception of the known victims.

23 Q With exception to the known victims, meaning the children
24 who were victims and who are pictured in those pornographic
25 files, am I correct?

Phung - Cross - Savitt

508

1 A By known victims, I mean the victims that were actually
2 identified by law enforcement officers.

3 Q And in terms of the perpetrators, some were identified by
4 law enforcement officers?

5 A Yes, sir.

6 Q Was Bebars Baslan in those pictures?

7 A In the ones I described before?

8 Q Yes.

9 A I don't know.

10 Q You have no idea?

11 A Because the face (sic) weren't shown in most of the
12 images and videos.

13 Q In your mind, is it possible that it could have been
14 Bebars Baslan?

15 A Are you asking for my opinion?

16 Q Yeah, I'm asking for your opinion?

17 A It's possible. I don't know.

18 Q And it's also possible that it could be anyone else,
19 right?

20 A Yes.

21 Q So whatever I'm asking you, and the questions that you
22 are responding to me, that's all pure speculation; am I
23 correct?

24 A It's possible.

25 Q And it's even possible that it's speculation itself is

Phung - Cross - Savitt

509

1 possible; am I right?

2 MR. SMITH: Objection.

3 THE COURT: Sustained.

4 Q In other words, you don't know, do you?

5 A No.

6 MR. SAVITT: Okay. No further questions.

7 THE COURT: Anything else?

8 MR. SMITH: I have one question.

9 REDIRECT EXAMINATION

10 BY MR. SMITH:

11 Q Based on your review of the Apricorn hard drive, did it
12 appear that the files there were named in which is consistent
13 with the download links we looked at?

14 A The folders, yes.

15 MR. SMITH: No further questions.

16 RECROSS-EXAMINATION

17 BY MR. SAVITT:

18 Q And, if I may, the download links, where are they from?

19 A The Internet.

20 Q The Internet?

21 A Yeah.

22 MR. SAVITT: Thank you. No further questions.

23 THE COURT: All right. Thank you very much. You
24 may step down.

25 Mr. Smith. Ms. Demas.

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1 MR. SMITH: The government rests.

2 THE COURT: Ladies and gentlemen, the government has
3 concluded the presentation of evidence in support of the
4 charges. The good news is that you get an even earlier
5 dismissal than I expected you to get. We're going to send you
6 home. It's absolutely critical over this weekend, this now
7 long three-day weekend that you abide by my instructions,
8 obviously, not to discuss the case. In the unlikely event
9 you'll find any news stories that could conceivably relate to
10 this case, please do turn your attention away from them.
11 All right.

12 We're going to resume the trial first thing Monday
13 morning, Monday morning at 10:30 a.m. I want you to get
14 plenty of rest. Have a pleasant weekend. Be safe. I think
15 the rumor is that the railroad is back in business, but don't
16 take my word for that. In any event, we'll see you 10:30
17 Monday morning.

18 (Outside the presence of the jury.)

19 THE COURT: I do have requests from the government,
20 request a charge. In large measure we have incorporated many
21 of them, at least in substance, in our very first draft, a
22 copy of which you'll get either later today, or in your e-mail
23 in a very short period of time. I want to caution everybody
24 this is a first draft. My practice is to not overload the
25 jurors with instructions about issues that are not really

Proceedings

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1 issues in the case, so if there's a number of instructions
2 that I've opted not to include in my first draft, obviously if
3 certain things become important or become an issue, either
4 throughout the balance of the evidence or in the course of the
5 summations, I may feel that an instruction is appropriate, so
6 fair warning. Let's talk about Monday.

7 And how long do we expect, Mr. Savitt, the defense
8 case to take?

9 MR. SAVITT: Well, I guess I can quote Mr. Smith; it
10 depends on Mr. Smith or Ms. Demas' cross-examination. It
11 depends on the cross-examination by the prosecution. I expect
12 that the direct examination of my client, who has again
13 confirmed that he wishes to take the stand, will take in the
14 neighborhood of about an hour, maybe. Cross-examination,
15 however, may -- who knows where we're going to go with that.
16 I'm not sure that I'm going to call any additional witnesses.
17 If I will, it may be just one additional witness, in the form
18 of -- since Mr. Baslan's credibility is going to become an
19 issue in this case, apparently, it will be in the form of
20 character testimony, which I don't anticipate will take very
21 long.

22 THE COURT: So it certainly seems that we'll
23 complete the evidence on Monday.

24 MR. SAVITT: It certainly appears that way.

25 THE COURT: All right. I think you should be ready

Proceedings

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1 to sum up Monday afternoon --

2 MS. DEMAS: Yes, Judge.

3 MR. SMITH: Yes, Judge.

4 THE COURT: -- if we can. All right. Do you want
5 to record your motions, Mr. Savitt?

6 MR. SAVITT: Sure, your Honor. Under Federal Rule
7 of Criminal Procedure 29(A), my motion is for a directed
8 verdict of acquittal with respect to Count 1. Let me just go
9 count by count, not that it will make -- I don't think the
10 arguments as to each of the counts are going to be
11 dramatically different, your Honor, or particularly lengthy.

12 Count 1, I asked for an -- actually a dismissal of
13 that count, because that count carries with it a mandatory
14 minimum term of 30 years. And I understand -- I've read some
15 of the legislative history. I think I even understand some of
16 it and some of the case law as to the travel act with intent
17 to commit aggravated sexual abuse. There are -- there is some
18 authority to the effect that that really was intended, and I
19 think it comes out of the 9th Circuit, so whatever it's worth,
20 Judge, I know the 9th Circuit is pretty far away.

21 THE COURT: You're talking to somebody who sits on
22 the 9th Circuit from time to time.

23 MR. SAVITT: It's a wonderful Circuit, and I believe
24 that it should be followed, as a result. If I recall
25 correctly, the 9th Circuit pattern jury instructions would

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1 indicate, and I don't have it right in front of me, that this
2 particular act, the travel act, which is U.S. -- 18 U.S. C
3 Section 2241(c), is really aimed at completed sexual assault,
4 as opposed to contemplated sexual assault. I understand that
5 that may be a novel interpretation, but I believe it is the
6 more reasoned approach.

7 But beyond that, my concern about this -- and I
8 don't know to the extent that there have been any
9 constitutional challenges in this regard, that I believe that
10 should my client be convicted of this count and be subject to
11 a 30-year mandatory minimum sentence, based on the facts of
12 this case, the way the statute applies to him would be a
13 violation, I believe, of the 8th Amendment, and I've had the
14 unfortunate experience of representing somebody -- a police
15 officer who was involved in a rape of a school teacher some
16 two years ago.

17 And having gone through the statistics about
18 sentences for both adult and child rape, it appears that the
19 30-year sentence involved in conduct, even if proven that
20 there was an intent to -- not to rape any child but to have a
21 sexual act in the form of contact with genitalia, would be
22 extraordinarily harsh in comparison to much lesser sentences,
23 involving completed rape, some of which involved violence
24 against the victim, leaving permanent, not only emotional, but
25 physical scars.

Proceedings

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1 The other portion of that, to the extent that I'm
2 fighting an uphill battle in this arena, I believe it's a
3 violation of my client's due process rights, wherein the
4 legislature has invaded the province of a sentencing court to
5 impose a sentence that is commensurate with the guilt of the
6 defendant, as opposed to such a draconian mandatory minimum
7 sentence; to a lesser extent, because there are lesser
8 mandatory minimums for Counts Two and Three, they're 50-year
9 mandatory minimum counts, and Count 4, which is the ten-year
10 mandatory minimum account, I make the same arguments. And
11 Count Five is moot, I believe, at this point.

12 THE COURT: I listen. I hear you. And the
13 application is denied. Okay.

14 MR. SMITH: Judge.

15 THE COURT: Sir.

16 MR. SMITH: Mr. Savitt indicated that he expected at
17 most one defense witness in addition to the defendant. We'd
18 like to know who it is.

19 THE COURT: Ask him.

20 MR. SMITH: Who is it?

21 MR. SAVITT: Mariana Kowal, K-o-w-a-l.

22 MR. SMITH: Thank you.

23 THE COURT: Anything else?

24 MS. DEMAS: No, your Honor.

25 MR. SMITH: No, your Honor.

1 MR. SAVITT: I don't believe to.

2 THE COURT: Thank you for your efforts. I'll see
3 you Monday morning.

4 MR. SAVITT: What time?

5 THE COURT: Why don't you come here, let's say,
6 10:00 o'clock. I'm not sure I'm going to actually be able to
7 get here at 10:00 o'clock, but I'll certainly be here before
8 10:30.

9 MR. SAVITT: Yes, your Honor.

10 (Proceedings continued on the following page.)
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I N D E X

WITNESS

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